Moncton Provincial Court-Domestic Violence Pilot Project: A Comparative Study

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Executive Summary

This report presents the results of a study of domestic violence cases processed through the *Moncton Provincial Court-Domestic Violence Pilot Project*[1] model based on a comparison with the *Fredericton Provincial Court*[2], over an 18-month period. The report provides an analysis of demographics of accused and victims, incidents, charges, and sentences in domestic violence cases, documenting who is entering into the court systems in Moncton and Fredericton and how cases are processed under specialization versus regular court. Through the presentation of findings, the comparison provides information on the unique differences of the Moncton court. This report highlights strengths and weaknesses in the early operation of the Moncton court, identifies potential gaps in the court model, and provides an understanding of some of the intended effects and potential unintended effects of specialization.

Methodology

This final report employed diverse data sources and methods. It combines qualitative (field notes from observations in the Moncton and the Fredericton courts) and quantitative (analysis of aggregated data-sets based on domestic violence cases) methodologies, using different data collection processes. This mixed-method design allows a comprehensive overview of domestic violence cases processed through the justice system. One major data collection method was used: tracking of domestic violence cases heard in the Moncton and the Fredericton courts. Field notes from courtroom observation of domestic violence cases processed at the Moncton court site and at the Fredericton court site supplement the research analysis.

Definition of Domestic Violence

This report uses the definition of domestic violence adopted for cases heard in the Moncton court. The same definition was used to identify domestic violence cases heard in the Fredericton court:

> *Domestic Violence* is committed when a person who is or who was involved in an intimate personal relationship, uses abusive, threatening, harassing, or violent behaviour as a means to psychologically, physically, sexually or financially coerce, dominate and control the other (Province of New Brunswick, 2009b, p. 5).

1 In this report "Moncton court" is used to refer to the *Moncton Provincial Court-Domestic Violence Pilot Project*.
2 In this report "Fredericton court" is used to refer to the *Fredericton Provincial Court*.

Summary of Findings

The examination of domestic violence cases in the Moncton and the Fredericton courts highlights that most of the accused who were processed through the system were men; in their twenties, thirties, and forties; many with prior criminal records. The victims generally were females who were a couple of years younger than the accused, sometimes a current partner, at other times an ex-partner. Contextual information on domestic violence related offences were also examined. Little information about the use of substance and the presence of children are noted in cases. Weapons were not generally used during an incident of domestic violence, but when they were, knives and household objects were most often the weapon that was identified by the responding police officer. Police officers rarely noted the presence of children. The action taken by the responding police officer is a critical component to this report. When the risk assessment tool, B-SAFER, was completed by the responding police officer, they were more likely to assess that violence would be more likely to reoccur. Police officers were most likely to charge the accused with a common assault, uttering threats, or a breach. A section of the report focuses specifically on risk assessment, charges, and sentences in the Moncton and the Fredericton courts. It examines relationships between risk assessment, charges and sentences; charges and sentencing; and sentence outcome by mean time in the court process.

Conclusion and Suggestions

The conclusion provides emerging findings from the comparison of domestic violence cases in the Moncton and the Fredericton courts. Information was gathered to draw a broad understanding of domestic violence cases processed in the different court systems and to respond to the very first question of the study.

Gathering Information on Accused

Who is entering into the court systems in Moncton and Fredericton led the researchers to look closely at information gathered about domestic violence cases for both locations. We demonstrate the difficulty to identify which cases are related to domestic violence in the Fredericton court compared to cases identified early in the court process in the Moncton court. In order to obtain a broad understanding of how widespread domestic violence is in New Brunswick:

1. It is suggested that the Province of New Brunswick develop an effective clear identifier for domestic violence related offences brought before the court system.

Gathering Information on Victims

Gathering information about victims was also challenging in the course of the study as the number of accused and victims in both the Moncton and Fredericton courts are not comparable. The problem is the inability to pair many victims with accused in order to examine what kinds of supports were provided to victims while accused were in the court system. In order to support victims and thoroughly understand *Victim Services* impact on victim safety:

2. It is suggested that *Victim Services* and *JISNB* adequately identify victims receiving assistance while accused are dealing with the court system.

Charging

With a court dedicated to domestic violence cases it is possible to obtain an exhaustive list of charges related to domestic violence situations, indicating the many possible charges identified by the researchers that relate to domestic violence cases. It also illustrates the complexity of the issue. The Moncton court is the only court in New Brunswick that systematically captures domestic violence related offenses in a way that allows for the tracking of such cases.

It is also the only region in New Brunswick where the government has a more systematic view of domestic violence related offences. Before moving forward in the development of other specialized courts dedicated to domestic violence cases, it would be beneficial, from a government perspective, to implement a high-quality means of tracking all domestic violence cases processed through courts across the province of New Brunswick. Such an initiative would certainly provide a better picture of how the justice system responds to domestic violence cases.

3. As per suggestion 1, it is fundamental to develop a system will which permit the flagging of domestic violence cases in the court system prior to establishing other domestic violence specialized courts in New Brunswick.

Court Processing Time

An objective of the Moncton court was to ensure a timely response in domestic violence cases. From police intervention to sentencing by the court, responding in an appropriate timeframe can make a difference for those who are impacted by domestic violence. Regular courts have

been criticized for not protecting victims and for not emphasizing offender's accountability for their actions. Despite the high number of cases processed in the Moncton court, from the incident, first appearance in court, to sentencing, the accused received a quick response from the court system. A median of nine days, from the incident to the first appearance in court, demonstrates an immediate response by the court. Domestic violence is a complex issue, resulting in crisis situations between intimate partners that often evolve rapidly. Therefore, a timely response from judiciary and quick resolution can facilitate adequate intervention (e.g., treatment programs, monitoring). From first appearance to sentencing, the Moncton court processes domestic violence cases in a short time period (77 days median). This means that the outcome for domestic violence related offenses is made quickly. As illustrated under the *Court processing* section in this report, the Moncton court clearly processed the accused in a timely fashion in order to address the situation.

4. It is suggested that the Moncton court maintain the frequency of court sessions in order to facilitate a timely response to domestic violence cases.

Monitoring

Another objective of the Moncton court was to emphasize offender's accountability by the establishment of court monitoring processes. Monitoring sessions are imposed by the judge. Although monitoring sessions occur generally after sentencing, there were high risk cases, in the period under study, where monitoring sessions started before sentencing. We would recommend a longitudinal study on court monitoring to fully measure its impact on offenders over the long term and to compare this group with offenders who are or are not monitored over a longer period after sentencing. Examining offenders on a longer period of time would also allow the Province to measure re-offence. To fully understand the impact of monitoring on offenders and the potential for re-offence:

5. It is suggested that the Province of New Brunswick track both monitored and non monitored offenders over an extended period of time in order to gain better appreciation of the difference that monitoring can make.

Risk Assessment

To reduce the risk of further domestic violence incidents, another objective of the Moncton court is the use of risk assessment tools by police, by correctional and probation services, and

on behalf of victims, by the Department of Public Safety Victim services[3]. Prior to the inception of the Moncton court police officers across the province of New Brunswick were trained to use the risk assessment tool B-SAFER. Once completed, these assessments are forwarded to the crown prosecutor. Domestic violence cases in Fredericton did not include risk assessments. Moreover, B-SAFER assessments were found in only 37% of all domestic violence cases under study in Moncton and some incomplete assessments were provided to crown prosecutors for their files. From information collected for this report, a completed risk assessment makes a difference in the treatment of domestic violence cases. The risk assessment B-SAFER was not systematically used in the course of the 18-month period of this study. Therefore,

6. It is suggested that the Province of New Brunswick reinforce the necessity for police officers to complete the risk assessment (B-SAFER) and to ensure that it is forwarded to crown prosecutors for their files.

Sentencing

There are few differences between sentences across the two courts. For instance, in both courts, the most common sentence was supervised probation for assault related charges, followed by incarceration, conditional discharge, and suspended sentence. Regardless of the court, findings show that judicial sentencing is impartial. The findings of this study emphasize this conclusion: sentencing under specialization is similar to sentencing in a regular court. However, specialization does differ from a regular court process when it involves monitoring of offenders and in engaging professionals in a coordinated approach to domestic violence cases.

7. It is suggested that the Province of New Brunswick provide better explanation of the role of a domestic violence specialized court to professionals working in the justice system and to the general population to discourage assumptions that sentencing might be different under specialization.

Courtroom Observation

Courtroom observations of domestic violence cases at the Moncton and the Fredericton court sites was conducted near the end of the study. The purpose of this component was to supplement the analysis and to orient the researchers in the realities of the court processing in domestic violence cases. Observing first appearances, bail hearings, sentencing, monitoring, etc. clarified the differences in court processes in the Moncton court in comparison to the

[3] The risk assessment B-SAFER is the only assessment reviewed in this study.

Fredericton court. Courtroom observation helped in understanding the importance of a collaborative approach among professionals in the specialized court process. It was an excellent way to see what roles professionals are playing during court sessions and how their expertise and knowledge of cases are essential in ensuring offender accountability and victim safety. A key difference in the overall operation of the courts was the coordination of professionals. In the Moncton court, that role is assumed by the court coordinator. The court coordinator is critical in ensuring that efforts are made to respond to clients needs (victim/offender) and that interventions are not in contradiction with one another. Overall, the court coordinator ensures the maintenance of a high level of collaboration among professionals.

8. It is suggested to maintain the court coordinator position a permanent position under the Moncton court.

* * *

This comparative study highlights two different court system processes in dealing with domestic violence cases. The comparison provides an informed snapshot of the differences and similarities of diverse aspects of court systems such as charges, court processing, outcomes, risk assessments, re-offense and, victim and accused information.

In the opinion of researchers, the Province of New Brunswick should maintain the operation of the *Moncton Provincial Court-Domestic Violence Pilot Project* beyond the pilot project period. This report illustrates that the Province takes seriously the need of the justice system to effective address domestic violence cases through the implementation of a specialized response. What was unexpected is the extent to which the court system is dealing with domestic violence cases. The pilot project set up in Moncton has shed light on an issue that is simply under estimated in our society. Domestic violence is a major criminal justice issue that the Province of New Brunswick is attempting to address. This is a commendable endeavor for which the province's efforts deserve recognition.

Introduction

The *Provincial Court-Domestic Violence Pilot Project* in Moncton as a result of a multitude of consultations with government and non-government agencies, existing court models, best practices in research literature and expert advice. In 2001, the *Minister's Working Group on Violence Against Women* brought together government departments, community agencies, and university researchers in discussions about a better response to women in situations of violence in New Brunswick. Out of these discussions the minister's working group developed a comprehensive strategic framework to address women's issues in New Brunswick. Suggestionss from the strategic framework were presented to the provincial government, and in December 2001 a three-year action plan, entitled *A Better World for Women*, was launched in New Brunswick (Province of New Brunswick, 2001). In 2005, the provincial government released a second action plan entitled *A Better World for Women: Moving Forward 2005-2010* (Province of New Brunswick, 2005). The establishment of the Moncton court is an outcome of the second action plan. In July 2005, a provincial steering committee was established to move forth the project, and its members included senior government personnel in partnership with community agencies (Province of New Brunswick, 2009b, p. 4).

Background

In January 2006, *Muriel McQueen Fergusson Centre for Family Violence Research* (MMFC) joined the New Brunswick government's provincial steering committee on the development of the *Moncton Provincial Court-Domestic Violence Pilot Project.* MMFC was asked to lead the evaluation of the *Moncton Provincial Court-Domestic Violence Pilot Project.* In May 2006, MMFC submitted an evaluation framework[4] (Appendix 1: Evaluation Framework) to the provincial steering committee to document the implementation of the *Moncton Provincial Court-Domestic Violence Pilot Project.* The evaluation is a three-year project, as agreed between the principal researcher and the provincial steering committee. As explained in the evaluation framework, two distinct reports were expected as part of the evaluation: an interim report submitted during year two to the provincial steering committee regarding the implementation process (Appendix 2: Interim

[4] There were two different revisions of the evaluation framework: it was first revised on February 5, 2007 and finally revised on April 5 2007.

Report)[5], and a final report submitted at the end of year three to assess the impact of how the specialized court pilot model has been implemented and how it has operated since its inception in 2007. Before submitting the final report in March 2010, the researchers were requested in March 2009 to prepare a draft report of descriptive analysis of domestic violence cases processed through specialization in Moncton. The draft report was submitted to the *Women's Issues Branch* on November 30, 2009.

Purpose of the Final Report

This final report describes the impact of the *Moncton Provincial Court-Domestic Violence Pilot Project*[6] model based on a comparison with the Fredericton Provincial Court[7]. The report provides an analysis of demographics of accused and victims, incidents, charges, and sentences in domestic violence cases, responding to the following questions:

1) Who is entering into the system in the Moncton court, and how are cases being processed differently under specialization?
2) How does the Moncton court function and how do processes differ from the Fredericton court, in terms of victim services, sensitivity to the unique nature of the crime, and the challenges to professionals involved in the justice system process?
3) What are the preliminary outcomes of the Moncton court?

The evaluation priorities have been structured according to a three-year time frame. The first comparison of its kind in Canada, this report is based on an in-depth study of domestic violence cases processed through a specialized domestic violence court, such as the Moncton court, compared to domestic violence cases processed in a regular court, such as the Fredericton court, over an 18-month period. The rationale for choosing the Fredericton court as a comparative site is detailed under the methodology section. Additionally, the comparison highlights court observations in Moncton and Fredericton for the months of February and March 2010.[8]

[5] The interim report main focus was to respond to the following question: Has the *Moncton Provincial Court-Domestic Violence Pilot Project* been implemented as planned?
[6] In this report "Moncton court" is used to refer to the *Moncton Provincial Court-Domestic Violence Pilot Project*.
[7] In this report "Fredericton court" is used to refer to the Fredericton Provincial Court.
[8] Choices are explained under the methodology section of this report.

It is important to keep in mind that this report is not intended to be a fully outcome-based evaluation; in order to measure the entire scope of impacts, a longer period of data collection would be required. This report highlights strengths and weaknesses in the early operation of the Moncton court, identifies potential gaps in the court model, and provides an understanding of some of the intended effects and potential unintended effects of specialization. It does not entail an analysis of the cost-effectiveness of the specialized court model. This report responds to the evaluation framework as proposed and adopted by the provincial steering committee in 2007.

Domestic Violence Specialized Courts in Canada

Over the past twenty years, the criminal justice system has assumed a pro-active and interventionist role in response to intimate partner violence, including funding strategies to support research, victim services and programs for abusers, and an array of new law enforcement policies and legislation (Gill & McTiernan, 2007; Ursel, Tutty, & leMaistre, 2008), such as pro-arrest policies and civil legislation (Holder, 2006; Ursel, 2002a). One innovative justice system response has been the development of specialized processes in several jurisdictions across Canada. Specialization represents a collaborative and multidisciplinary approach to case processing across a range of related services involving victim support, government and community treatment programs, specialized policing units, dedicated crown prosecutors, and specialist probation officers (Tutty, McNichol, & Christensen, 2008; Ursel & Hagyard, 2008; Van de Veen, 2003).

Specialization was a response to criticisms of traditional justice approaches to intimate partner violence which centered on two primary issues: 1) re-victimization of the victim during the process; and, 2) issues of court leniency including overlapping and concurrent charges in cases of intimate partner violence (Bennett & Williams, 2003; Buzawa & Buzawa, 2003; Ursel, 2002a). Specialized court is a term used for a broad range of related services (comprised of courts, community programs, services for victims, and treatment agencies for offenders) that support and work with courts (Busby, Koshan, & Wiegers, 2008). Together they aim to improve justice response by addressing issues relating to the timeliness of court proceedings, use of existing legal remedies, and intra-court communication by bringing together sensitive, trained professionals to apply effective solutions, monitor sentencing conditions and support positive outcomes for victims, and establish a responsive system that encourages and supports

offender accountability (Dawson & Dinovitzer, 2001; Gill & Tutty, 2005; Gondolf, 2001; Gover, Brank, & MacDonald, 2007; Mark, 2003; Mazur & Aldrich, 2003; Ursel, 2002b).

While the goals of specialization are similar, there are many different models. Additionally, levels of specialization vary widely; specialized police justice responses may be comprised of coordinated specialized and non-specialized efforts including police units, prosecutors, and probation officers. Some jurisdictions have created courts that handle only intimate partner violence cases; others have changed court processes to ensure more effective processing of intimate partner violence matters; some handle an array of family violence issues; yet others have specialized staff who provide support to victims (Weber, 2000).

As demonstrated in the literature on domestic violence, an effective response from a specialized court considers women's safety as a top priority in the justice system (Ursel, 2002b; Weber, 2000). Based on an understanding that intimate partner violence differs in many significant ways from violent incidents where the perpetrators are strangers or acquaintances, the task of fully prosecuting domestic violence cases and adequately ensuring the safety of victims poses unique challenges at many levels of the judicial process. The challenges are experienced by the police officers, victim services personnel, prosecutors, judges, probation officers, and treatment providers.

Specialized domestic violence courts are designed to provide solutions to some of these challenges by streaming domestic violence cases through a system where the professionals who are involved are trained, sensitive to domestic violence and its dynamics, and are working in a coordinated fashion across sectors to provide an appropriate approach to prosecution, victim accommodation, sentencing recommendation, and treatment. There is no unique model in Canada (Busby, et al., 2008). However, all specialized courts strive to have coordinated approaches among various stakeholders involved in the justice system response to domestic violence. The Moncton court is one such initiative and is presented below.

The Demonstrated Effects of Specialization

One effect of specialization is to provide more appropriate sentencing for domestic violence related offences and this has been demonstrated as effective in many cases. For example, specialization has been shown to increase court-mandated specialized treatment for first-time

offenders, and has resulted in higher incarceration rates for recurrent offenders (Moyer and Associates, 2000). Re-offending has also been shown to decrease under specialized court systems (Hoffart & Clarke, 2004). Using the example of court monitoring in the Moncton court, specialization also emphasizes offender accountability.

By providing a coordinated response and a prosecution team that is attentive to the unique realities of domestic violence, some specialized court systems have in effect redefined the measures of success in justice response to domestic violence cases, and have been more successful that the conventional system in meeting the diverse needs of victims (Ursel, 2002b). Specialization has also been shown to contribute to a more expedient court process in domestic violence cases in both Manitoba and Ontario. A timely and appropriate court process is seen to increase the safety of the victim, and decrease the likelihood of victim statement recants.

While there are different domestic violence specialized court models in Canada, very few have been evaluated, and few reports have been published or are accessible to the public (Hoffart & Clarke, 2004; Ursel, 1992). Available documentation was reviewed in preparation for the evaluation of the Moncton court, and the decision was made to do a comparative study of domestic violence cases under specialization and non specialization. From our knowledge, this comparative study is the first of its kind in Canada.

The Moncton Provincial Court-Domestic Violence Pilot Project

This section of the report presents the model (Province of New Brunswick, 2009b) established in the Moncton court and its various components. The first domestic violence court in the Atlantic region, this court is the result of various actions taken by people in the province of New Brunswick. The court project was officially launched in the city of Moncton on October 20, 2007. The Moncton court held its first session on April 12, 2007.

A local court advisory committee was established January 2007. Its role is to provide assistance in overseeing the process of cases flowing through the court system and bring forth recommendations to solve arising gaps. The local court advisory committee is chaired by the Honourable Judge Dugas-Horsman and is composed of the following key partners; Crown Prosecutor; Supervisory Duty Counsel, Criminal Operations, NB Legal Aid Services Commission; Director of Domestic Operations, NB Legal Aid Services Commission; President

of the Moncton Area Lawyers Association and President of the NB Criminal Defence Lawyers Association; Codiac Regional RCMP; Caledonia RCMP District; RCMP District #4 South East; Coordinator of Police-based Victim Services; Department of Public Safety; Victim Services Coordinator and Probation Officer; Supervisor of Court Support Services; Court Stenographer; Managers of Mental Health and Addiction Services; Program Division Manager for the Department of Social Development; Sheriff of the judicial district of Moncton; Manager of the Domestic Violence Intervention program / Family Services Inc. and the Coordinator of the Domestic Violence Court (Province of New Brunswick, 2009b, p. 20). There is also a coordinating team (Province of New Brunswick, 2009b, p. 15) providing services to respond to the complexities of domestic violence cases and ensure the goals and objectives of the court are satisfied.

Key partners involved in the delivery of the Moncton court are: a dedicated Judge, Court Coordinator, Police (RCMP), Police-based Victim Services, Crown Prosecutors, Defence, Legal Aid, Department of Public Safety (Victim Services), Probation Services, Addiction and Mental Health Services, Child Protection Services.

Information related to key partners described in the following section was retrieved from the Operational procedures document, pp.21-44 and from internal documents.

Judge

The Judge assumed the following roles in the establishment of a specialized justice response to domestic violence: a consultative role on how to establish specialization without interrupting or intruding on the judicial processes; a role of guidance regarding how to established specialization within a Provincial Court while respecting the same judicial procedures as in any other Provincial Court and as indicated under the provisions of the *Criminal Code of Canada* and lastly, a role of leadership when we needed resources.

Court Coordinator

A court coordinator was appointed to the Moncton court by the Department of Justice to provide a safeguard between the Bench and the various entities and service providers who work daily in that court. This is an essential component, as the court must never lose the public's perception of neutrality. The Moncton court must be viewed as a completely fair environment

for both sides to be heard and for help and justice to be offered. Only in this way will the court be viewed with trustworthiness by both the offender and the victim. The role of court coordinator is key in preserving the necessary judicial independence. Specifically, from an operational perspective, the court coordinator role is to provide:

1) Administrative support – convocation of meetings of the various committees and working group;
2) Preparation of minutes of the various meetings which are essential in documenting our evolution;
3) Update of operational procedures as they are modified – continue with the drafting of the various protocols that are yet to be completed and maintain up to date all documentation relating to the pilot project;
4) Liaison between the various entities;
5) Assistance with the monitoring – as the Provincial Court personnel are totally overwhelmed and this is something that cannot be added to their already overburdened workload;
6) Prompt response with operational issues as they are identified;
7) Contact person between meetings for all who are involved in the Court – with a special emphasis on the members of the private Bar;
8) Education Component – coordinate any educational program offered by one agency that could be of benefit to all with a vision of not only creating a specialized Court but a Court of specialists in domestic violence;
9) Implementation of New Initiatives - The development of community initiatives and partnerships that could benefit the pilot project especially at the level of the victim and offender.

Police (RCMP)

The police play a critical role as first responders to a domestic violence situation as their initial interventions have significant impact on the safety of victims and children. Their initial involvement makes available immediate support services and sets a course of action for victims that flows from the justice and community resource systems.

The Codiac RCMP – District #12 have dedicated two police officer positions within their Domestic Violence Unit. These officers ensure that all police information is complete for

referral to the Crown Prosecutor's Office. Caledonia RCMP – District #11 and South East RCMP – District #4 (Sackville area only) also assigned a Court Officer to assume the same responsibilities. That is, they:

1) Perform their duties in accordance to policy and procedures established for domestic violence within their service;
2) Refer to police-based Victim Services 24 Hour Emergency Crisis in circumstances requiring immediate assistance;
3) As required under Family Services Act and Woman Abuse protocols, refer to the Department of Social Development. These referrals are made in cases where there are children under the age of 16 years, or under the age of 19 years in situations where they have physical/mental challenges and witnessed or suffered physical / emotional abuse in a Domestic Violence situation;
4) Ensure that the victim and the DPS Victim Services Coordinator are informed of police undertakings, significant delays in police investigation, court appearance date, and court outcomes, so that this information can be passed on to the victim;
5) Administer the B-Safer assessment as per provincial Police Protocols;
6) Determine the situational risk level presented by the circumstances of the offence and detain or, when appropriate, release the accused on a promise to appear including an undertaking with various conditions emphasizing victim safety;
7) Obtained, whenever possible, a KGB statement from the victim including 911 recordings and all other pertinent evidence;
8) Release an offender, when deemed appropriate. An Appearance Notice will be provided within 15 days from the date of the Domestic Violence incident;
9) Verify and collect relevant information from Court of Queen's Bench, specifically matters related to Child Protection (Department of Social Development) and civil matters involving custody and access restrictions through a designated contact person;
10) Provide the Crown Prosecutor with the results of their B-Safer assessment, criminal history and all other information pertaining to the police investigation;
11) Provide an expedient referral to the Crown Prosecutor's Office within seven days from the date of the Domestic Violence incident;
12) Assist the Court to identify domestic violence cases by separating the Domestic Violence charges and attaching the Prosecutor's Information sheet;

13) Provide an accelerated process to all situations involving breaches of court orders in relation to domestic violence.

Police-based Victim Services

The Codiac RCMP District #12 operates an established Victim Services Unit where the Co-coordinator of their police-based Victim Services ensures that all referrals involving victims of domestic violence are referred as soon as possible to the Department of Public Safety (Victim Services) co-coordinator thus ensuring access to an array of support services. *An inter-agency protocol: A safety planning for victims of domestic violence* was developed in 2007.

Crown Prosecutors

The operational procedures document provided to crown prosecutors assists them with their responsibilities when dealing with spousal/partner violence prosecutions. This guideline statement is intended to reflect the unique, serious and emotionally-charged nature of spousal/partner violence and the destructive effect of the cycle of violence. Public Prosecution Services recognizes the need for a community-based multi-disciplinary response to spousal/partner violence.

Defence/Legal Aid

The role of Defence/Legal Aid[9] is to participate in committee meetings both at the Coordinating and Local Court Advisory Committees. They share their opinions in accordance with their role.

Victim Services Coordinator

A Victim Services Coordinator position was dedicated to the Moncton Court to provide the full range of services to victims including counselling, court preparation, crime compensation, victim impact statements and notification of offender release. Recognizing that the victim is a voluntary client, and therefore the decision-maker, the victim services coordinator provides advocacy and support throughout the criminal justice process. The Victim Services Coordinator also administers risk assessments to aid with victim safety planning.

[9] To date, there is no official role in the Operational procedures document for Defence/Legal Aid.

Probation Services

A Probation Officer position was dedicated to the Moncton Court to provide a wide range of services to the offender, the courts and the correctional institutions, and to serve as a liaison with community resources. The probation officer has, as one of its primary functions, the responsibility of supervising individuals sentenced to a community disposition pursuant to legislative authority under the *Criminal Code of Canada.* Another of its functions is the preparation of court ordered reports, specifically pre-sentence reports that serve to assist the court in making sentencing decisions including conditions an offender must follow when supervised in the community. In addition to this, probation officers assess offender needs and risk to re-offend in order to develop comprehensive case plans. These case plans are constantly reviewed and revised throughout the period of supervision, and involve continuous liaison with community agencies and services in order to ensure the offender's compliance and progress.

Child Protection Services (Department of Social Development)

The *Department of Social Development* has the mandate to respond to incidents and reports of child abuse. Their mandate is to "Provide protection to any child under age 16 or to a disabled child 19 and under, whose care at home is deemed to place the child's security and development in danger, in accordance with the Family Services Act."

Addiction Services

The role of the .5 domestic violence social worker – Addiction Services designated to the Moncton court is: to make contacts with clients; initiate and complete assessment; to establish a treatment plan with the client and/or multidisciplinary teams; to make referrals to outside agencies when necessary (i.e. Detox, Rehab Center, Addiction Services, etc.); to develop and facilitate monthly group sessions; to participate in the planning of activities; and to provide continuity of care between outside agencies (i.e. Detox, Rehab Center, Addiction Services, etc.), and the Justice Department.

Mental Health Services

There is a .5 social worker (half time position) designated to receive referrals from the Moncton court and to provide the services when indicated. Once the social worker receives a referral from the probation officer, he/she will contact the individual to gather basic information (screening). The social worker will then make an appointment with the client to complete an

intake assessment. Following the intake assessment, if a client qualifies for services under the mental health mandate, a decision will be made as to the services required. The social worker assigned to the Moncton court will inform the probation officer when clients do not attend their scheduled appointments or if a file has been closed.

All information provided in the section above is mainly a replication of roles detailed in the Operational procedures as updated in 2009.

Goals and Objectives of the Moncton Provincial Court-Domestic Violence Pilot Project

Goals

The primary goal of the Moncton court is to diminish incidents of domestic violence through a process of collaboration with key community partners that accelerates access to support services and intervention programs, thereby enhancing victim safety while emphasizing offender accountability (Province of New Brunswick, 2009b, p. 8). More specifically, with a goal of preventing further incidents of domestic violence, the court makes early intervention available through immediate access to a domestic violence intervention program to low risk offenders who appear before the court for the first time. When offenders are deemed moderate to high risk to re-offend, the emphases are placed on: prioritizing victim safety, enhancing the prosecution process to prevent the collapse of cases, holding offenders accountable, and supervising and monitoring the offender upon release into the community. In cases of low, moderate and high risk cases, timely court intervention will occur to respond to breaches of undertakings and/or court orders.

Objectives

In order to achieve these goals, the following processes have been established and include:

1) Shortened court referral process beginning from the point where police services have determined that a domestic violence incident has occurred to forwarding police information to the Crown Prosecutor's office for completion of the pre-screening charge process and, where applicable, a referral to the court;
2) An immediate referral of the victim (with victim consent) by police services to the *Department of Public Safety (Victim Services)* for access to an array of support services.

This process offers continual support throughout the judicial system, not the least of which is assistance in identifying safety plans that meet individual needs;

3) In order to diminish the risk of further domestic violence incidents, at appropriate times, offender risk assessments are conducted by police officers, by probation services and on behalf of victims, by the *Department of Public Safety (Victim Services)*;
4) Enhancements of domestic violence intervention programs have been made to respond to the needs of low risk, moderate and high risk offenders;
5) To emphasize offender accountability, a court monitoring process of the offender's progress through the domestic violence intervention program has been developed.

Methodology

This final report employed diverse data sources and methods.[10] It combines qualitative (field notes from observations in the Moncton and the Fredericton courts) and quantitative (analysis of aggregated data-sets based on domestic violence cases) methodologies, using different data collection processes. This mixed-method design allows a comprehensive overview of domestic violence cases processed through the justice system. One major data collection method was used: tracking of domestic violence cases heard in the Moncton and the Fredericton courts. Supplement information provided from the *Department of Public Safety (Victim Services)* was used to compile services used by victims. Field notes from courtroom observation of domestic violence cases processed at the Moncton court site and at the Fredericton court site supplemented the research analysis.

The *Fredericton Provincial Court* was chosen as a comparative site for diverse reasons. Researchers wanted to be able to compare domestic violence cases processed in a domestic violence court (the Moncton court) and a regular court (the Fredericton court). The Fredericton court was a good comparative, because there are already services available, there is no specialized court in the Fredericton area of any sort, and Fredericton was not initially considered as a potential site for a domestic violence court. Although Fredericton has a lower population density, the domestic violence cases processed through court systems can be compared.

[10] Researchers received approval of the UNB Research Ethics board and complied with standard procedures to ensure that anonymity was maintained for all individuals identified in the domestic violence cases.

Court Tracking: Moncton and Fredericton Courts

Court tracking allows quantitative analysis of domestic violence cases through the Moncton and the Fredericton courts over a period of 18 months. One purpose of tracking domestic violence cases through both specialized and non-specialized courts is to understand case processes. Understanding court processes and outcomes (including pleas, sentencing patterns, and breaches)[11] helps to identify indicators related to women's safety and intervention with abusers. With data from both courts, it is possible to assess specialization and the processing of domestic violence cases, and to document the changes occurring as a result of specialization. To perform the court tracking in Fredericton and Moncton courts, the following documents were reviewed: 1) hard copy crown prosecutor files and 2) hard copy and electronic court files[12].

Court tracking has its limitations particularly in obtaining information about victims and what happens to them while the accused are brought before the court. Victim information is also difficult to gather as not every victim seeks help and support from agencies and programs in place. However, for those seeking assistance through *Victim Services* under the *Department of Public Safety* it is possible to have an idea of services received by victims while the accused is in the court system. Based on information provided by the Department of Public Safety, this report highlights services victims of domestic violence received from the *Department of Public Safety (Victim Services)* in both Fredericton and Moncton while the accused is in the court system during the period of April 2007 to October 2008.

Courtroom Observation: Moncton and Fredericton Courts

Courtroom observations took place at the end of the evaluation process. The intent was to attend court sessions (first appearance, bail hearing, sentencing and monitoring sessions) to

[11] Given the time required for cases to move through the justice system, an evaluation of recidivism requires a minimum four years of evaluation data gathering. If data collection from the Moncton court can go beyond the 18-month period reviewed in the report, re-offending rates can become a key evaluation component, providing a more long-term measure of court success.

[12] **Crown prosecutor files** (hard copies): The majority of data was collected from crown prosecutor files. Within the files, in addition to crown prosecutor forms, we found photocopies of information collected by the police including police notes, risk assessment, etc. The police information was the source of much of the demographic information. Also obtained from those files were accused and victim information. **Court files** (JISNB): Crown prosecutor file numbers were used to search in JISNB to locate appropriate cases. JISNB was used to fill in missing information on court data (such as court dates, outcomes, sentences, etc.) and previous criminal history of the accused.

document courtroom process. Observing courtroom proceedings is helpful to understand what the parties involved are doing and how they interact in the process (including, for example, professionals, victims, accused and witnesses). Courtroom observations provide the researchers with an understanding of the dynamics in the Moncton court compared to the Fredericton court. Researchers kept documented field notes to facilitate observation of differences in process. Approximately 35 hours were spent in observing courtroom processes.

Definition of Domestic Violence

This report uses the definition of domestic violence adopted for cases heard in the Moncton court. The same definition was used to identify domestic violence cases heard in the Fredericton court:

> *Domestic Violence* is committed when a person who is or who was involved in an intimate personal relationship, uses abusive, threatening, harassing, or violent behaviour as a means to psychologically, physically, sexually or financially coerce, dominate and control the other.
>
> *Domestic Violence* is also committed in the context of intimate ex-partners when an accused resorts to abusive threatening, harassing or violent behaviour towards the ex-partner's relative, friend or new partner as a means to psychologically dominate and control the complainant (Province of New Brunswick, 2009b, p. 5).

It is also important to note that intimate personal relationship includes: persons 18 years and older regardless of the age of the complainant. Intimate partner relationships refers to current and former married relationships; current and former common-law relationships; current and former dating relationships. If the domestic violence is related to or evolved from the former intimate personal relationship, the case is considered to be intimate partner violence (Province of New Brunswick, 2009b, p. 5).

In the Moncton area all cases involving domestic violence as described in the definition above are referred to the Moncton Court. The process involves the same judicial procedure as in any other criminal matter appearing before a Provincial Court. All cases are dealt with in a manner

that is consistent with the provision of the Criminal Code and all other statutes (Province of New Brunswick, 2009b, p. 7).

The elements of the domestic violence definition provided above dictated the type of cases studied for this final report. Researchers used the same criteria to identify domestic violence cases processed through the Fredericton court. However, domestic violence cases in Fredericton are not flagged in the same way as they are in Moncton and further investigations was needed to identify which cases were related to domestic violence related offences processed in Fredericton court. The province of New Brunswick does not have a system in place that can easily flag domestic violence cases in *Justice Information System New Brunswick* (JISNB). As domestic violence is not an offence under the Criminal Code it is difficult to have an entire picture of all domestic violence cases that are processed in a court system if not flagged right from the entry point. Therefore, to identify domestic violence cases, for instance, in Fredericton there has been diverse requests made to JISNB using relationships and charges codes[13]. Despite the challenge to identify all domestic violence cases processed in the Fredericton court compared to the Moncton court, this study allows a comparison of processes and treatment of domestic violence cases in light of the same offence under the Criminal Code.

Collecting Quantitative Information

This section describes the choices made in selecting variables for the court tracking of domestic violence cases, the data collection process, definitions of key terms including a case and accused, identification of included charges, as well as methodological choices. This report compares domestic violence related offences processed in the Moncton and the Fredericton courts, covering the period April 12, 2007 to October 12, 2008, which corresponds to the first 18-month of operation of the Moncton court.

In order to compile information on domestic violence cases, a recently developed data collection instrument including a codebook and grid[14] were used (Ursel, Blaney, Dawson, Gill, & Tutty, 2008). Additional variables were included to tailor data collection on domestic violence related

[13] This represents a limitation in this study as it is impossible to confirm that all domestic violence cases processed in the Fredericton court for the 18-month period were identified as such.
[14] The grid has been piloted in several locations across the country including domestic violence cases processed through Fredericton court in 2008.

offences processed in Moncton court and to enhance tracking of domestic violence cases.[15] The codebook is a comprehensive list of variables used to collect data from all identified cases in the system during the operation of the Moncton court. It includes variables on relevant dates (incident, first appearance, trial, sentencing); charges; outcomes; demographics of accused and victim; information on children; witnesses; complainant; drugs/alcohol; weapons; prior criminal history; injury; medical attention; risk assessment; bail; victim impact statements; evidence; sentencing; probation; and court monitoring.

A list of all domestic violence cases that were processed through the Moncton court during the period under study was prepared and provided to the researchers by the court coordinator of the Moncton court. From that list, crown prosecutor files located in Moncton, as well as crown prosecutor files already archived in the provincial Records Centre in Fredericton, were requested. Similarly in Fredericton, a list of individuals accused of domestic violence related offences was provided to the researchers by a criminal program consultant at *Court Services Division* from the *Department of Justice and Consumer Affairs*. Cases were identified using relationship codes as entered in *JISNB*. Using the codebook as a guide, all information was compiled into a database. The program, *Statistical Package for Social Sciences* (SPSS), enabled researchers to conduct analysis on the complete aggregated dataset.[16] After completing data collection from hard copy files, electronic court files were reviewed to search for information missing from the crown prosecutor files.

Data Analysis – Key Definitions

It is important to clarify some terms used in this report and why it is necessary to address different ways of framing domestic violence cases processed in the Moncton and the Fredericton courts. Two major terms (case, accused) are distinguished below. These are key terms used in the analysis.[17]

[15] For example, the crown prosecutor file number was added to allow searching for specific domestic violence cases in the electronic court database. Additionally, variables related to the B-SAFER form were added to record the level of risk identified by responding police officers.
[16] In the *SPSS* spreadsheet, missing and not applicable data is identified.

[17] ANOVA was used to compare means and the chi-square test was used to determine whether or not there were significant differences between frequency distributions. The statistical differences identified in this report had a probability of less than .05 or 5%. Some findings may not be statistically significant, due to small numbers, but are considered to be noteworthy.

Case - For the purposes of this report, a case (n=516)[18] refers to data collected from the crown prosecutor file and corresponding data from hard copy or electronic court file, such as information on criminal history.

Accused - An accused (n=402) is the individual who is being charged with committing the offence. Because some accused (n=73) are charged with additional domestic violence related offences at a later time during the period under study, the number of files exceeds the number of accused.

As is presented in the highlighted row in Table 1, the vast majority (n=267 in Moncton, n=62 in Fredericton) of accused in the database have been charged in only one case (n=329). However, a total of 73 accused have re-offended during the period under study, and as a result have more than one case. For example, a total of 47 accused have two cases from different incidents (n=41 in Moncton, n=6 in Fredericton). A total of two accused, have over five cases in total, where they are each charged with multiple separate incidents related to domestic violence.

[18] Number (n) – N is used to identify the total number of cases being analyzed. For this report, a total of 516 cases (n=436 in Moncton, n=80 in Fredericton) were reviewed. While data has been collected from all 516 cases, some information was missing from many of the cases. Therefore, the total number of (n) may vary whether there was information or not. In addition to the number being identified in the text, the total number is identified on the bottom, left hand side of each table. The smaller numbers in the Fredericton court compared to the Moncton court do not impact the quality of the comparison. The reader will note that tables are distinguishing both sites and are not providing any comparative calculation. All percentages, means, medians as well as statistical significance are calculated for each site.

Table 1: Number of Cases per Accused

	Moncton				Fredericton				Total			
	Accused		Cases		Accused		Cases		Accused		Cases	
Cases per Accused	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
1	80	(267)	61	(267)	89	(62)	78	(62)	82	(329)	66	(329)
2	12	(41)	19	(82)	9	(6)	15	(12)	12	(47)	18	(94)
3	5	(16)	11	(48)	3	(2)	8	(6)	5	(18)	10	(54)
4	3	(6)	6	(24)					1	(6)	5	(24)
5	1	(2)	3	(15)					1	(2)	3	(15)
Total	100	(332)	100	(436)	100	(70)	100	(80)	100	(402)	100	(516)

N=516

Note(s):
Percentages may not total 100% due to rounding.

In this report, the focus on the analysis is on the data collected from all 516 domestic violence cases from the Moncton and the Fredericton courts.[19] This means that each time an accused enters the court system, a new domestic violence case is created. As such, the analysis is on the complete set of aggregated data, treating each new case as an individual case for analysis. However, it is necessary to recognize the importance of examining individuals who re-offend and reappear in the court system. For instance, within the 516 cases shown in Table 1, there are 402 accused, some of whom have reappeared with additional charges. Reappearing in court with additional charges involves the creation of a new domestic violence case. Therefore, it is necessary to capture accused that re-offend. This explains the distinction between case and accused.

A total of 46 different *Criminal Code of Canada* charges are recorded in data collection. These charges include: first degree murder, second degree murder, attempted murder, manslaughter, assault with a weapon, aggravated assault, assault causing bodily harm, aggravated sexual

[19] Within the justice system (police, crown and court), domestic violence cases are incident based.

assault, sexual assault threats/bodily harm/weapon, sexual assault, criminal harassment/stalking, common assault/assault, assaulting a police officer, uttering threats, forcible confinement, choking to overcome resistance, possession of weapon dangerous to public peace, pointing a firearm, possession of a prohibited weapon, breach of recognizance/failure to comply, breach of probation, breach of court order/protection order/peace bond, break and enter, break and enter with intent, forcible entry, unlawfully in a dwelling, theft, robbery, mischief, causing a disturbance, harassing/annoying phone calls, sexual interference, invitation to sexual touching, sexual exploitation, indecent assault, gross indecency, incest, anal intercourse, buggery, obstructing justice, careless storage of a firearm, administering noxious substance, indecent act, criminal negligence causing bodily harm, breach of Family Services Act/Maintenance Act, and abduction. One variable to capture all other charges that are not otherwise included in the list of charges was also created (Ursel, Blaney, et al., 2008).

Findings

This portion of the report focuses on an overview of domestic violence cases processed in the Moncton and the Fredericton courts for the period of April 12, 2007 to October 1, 2008. It provides an overview of the complete dataset, and compares findings from Moncton and Fredericton domestic violence cases.

Demographic Characteristics[20]

To examine demographic characteristics, the following sections explore data collected on the accused, the victim, and the children involved at the scene. It also identifies recorded information on alcohol consumption or drug usage and the presence of weapons.

The Accused

Information on the accused generally included gender, age, previous criminal history – all identified in the responding police officer notes. Within the 516 cases, there were a total of 402 accused, including the 73 who were identified as re-offenders.

[20] All demographic characteristics have been retrieved from Crown prosecutor files, including information about the victim. It is only in section: *Victim Information* that data is from the Department of Public Safety, Victim Services.

Gender of Accused

Experts in the field of intimate partner violence recognize while many men are at risk of being victimized by their intimate partner, the majority of incidents of domestic violence involve a male abusing his female intimate partner (Brownridge, 2009; Cattaneo & Goodman, 2005; Province of New Brunswick, 2004). As indicated in Table 2, similar results were found in domestic violence cases under study. The vast majority of accused entering the justice system in the Moncton and the Fredericton courts were male. In the Moncton court, 94 percent of all cases reviewed had a male as primary accused, while the proportion of male accused, from the Fredericton court, was slightly lower at 90 percent. Seven percent of all cases involved female accused.

Table 2: Gender of Accused

	Moncton		Fredericton		Total	
Gender of Accused	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Male	94	(408)	90	(72)	93	(480)
Female	6	(28)	10	(8)	7	(36)
Total	100	(436)	100	(80)	100	(516)

N=516

Note(s):
Percentages may not total 100% due to rounding.

While the issue of violence is similar in same-sex relationships as in heterosexual relationships, the Moncton and the Fredericton courts almost exclusively processed domestic violence cases involving heterosexual couples. Within this 18-month period, there was evidence of only one case from Moncton, involving two men (the accused was identified as the boyfriend of the victim).

Age of Accused

Based on findings from existing studies, the average age of individuals accused of intimate partner violence is in the mid-thirties (Dawson, 2004; Etter & Birzer, 2007; Kong, 1996). Table 3 provides the mean and median ages[21] of the accused processed in the Moncton and the

[21] When appropriate, the means and the medians are identified. The mean (the arithmetic average) and median (the 50th percentile or value where half of cases will fall above, half below) may differ substantially.

Fredericton courts. Both the overall mean (35 in Moncton, 32 in Fredericton) and medians (35 in Moncton, 32 in Fredericton) were 35.

Table 3: Age of Accused

	Moncton	Fredericton	Total
Mean	35 years	32 years	35 years
Median	35 years	32 years	35 years
Total	(436)	(80)	(516)

N=516

Table 4 shows that 81 percent of the domestic violence cases included accused ranging in age from 20 to 44. Three percent of the accused were under the age of 20 while four percent were over the age of 54.

Table 4: Age of Accused at Time of Incident

	Moncton		Fredericton		Total	
Age	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Under 20	2	(9)	5	(4)	3	(13)
20 to 24	16	(69)	15	(12)	16	(81)
25 to 29	16	(68)	19	(15)	16	(83)
30 to 34	16	(68)	15	(12)	16	(80)
35 to 39	17	(75)	15	(20)	18	(95)
40 to 44	15	(67)	13	(10)	15	(77)
45 to 49	9	(39)	4	(3)	8	(42)
50 to 54	5	(23)	1	(1)	5	(24)
55 to 59	1	(6)	3	(2)	2	(8)
60 to 64	1	(6)			1	(6)
65 and older	1	(6)			1	(6)
Total	100	(436)	100	(79)	100	(515)

N=515

Note(s):
Percentages may not total 100% due to rounding.

Criminal History of Accused

Research suggests that many accused have prior criminal records, often with domestic violence related offences (Smith & Farole, 2009). For this study, data was collected from criminal history reports to explore relationships between criminal history and charging/sentencing. To examine criminal history, the number of previous convictions for the accused was recorded. However, it was not possible to determine if previous convictions, prior to the 18-month period under study, were domestic violence related offences. For example, as the criminal history, found in Crown prosecutor and court files does not provide information relating to the relationship between the accused and victim, prior assault charges may or may not have been a domestic violence case. As a result, it is only possible to examine the specific nature of offences during the 18-month study period. Approximately 70 percent of all domestic violence cases were of accused with prior criminal histories. Both the Moncton and the Fredericton courts processed comparable percentages of accused with criminal histories, and those who appeared for the first time.

Table 5: Prior Criminal History of Accused

	Moncton		Fredericton		Total	
Prior criminal history	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Yes	70	(299)	72	(57)	70	(356)
No	30	(129)	28	(22)	30	(151)
Total	100	(428)	100	(79)	100	(507)

N=507

Note(s):
Percentages may not total 100% due to rounding.

However, there is a noteworthy difference between the average number of prior convictions of male accused and female accused. Males accused had an average of almost five prior criminal convictions while accused females had an average of less than two convictions. Males accused from Fredericton court had a higher average number of prior convictions (4.7 in Moncton, 6.3 in Fredericton). Yet, females accused in Fredericton court had slightly lower average number of prior convictions (1.9 in Moncton, 1.3 in Fredericton).

Table 6: Prior Criminal History, by Gender

	Moncton		Fredericton		Total	
Prior Criminal History	**Mean**	**(n)**	**Mean**	**(n)**	**Mean**	**(n)**
Male	4.7	(400)	6.3	(71)	4.9	(471)
Female	1.9	(28)	1.3	(8)	1.8	(36)
Total	4.5	(428)	5.8	(79)	4.7	(507)

N=507

Although it was not possible to track the circumstances surrounding convictions prior to the period under study, once an accused has been identified, it is possible to monitor all domestic violence cases that were subsequently identified within the 18-month period.

The Victim

Domestic violence cases are incident based, with a primary focus on the accused and evidence of the offence(s). As a result, only minimal information on victim characteristics can be found in domestic violence cases. This information generally included the gender and age of the victim, as well as the relationship between the victim and accused. According to the latest report by *Statistics Canada*, approximately 83 percent of all victims of domestic violence are female (Statistics Canada, 2009). In the cases reviewed for this report, an even higher percentage, 89 percent of the overall victims, were women. The breakdown of victims by gender is provided on Table 7. Most of the domestic violence cases (n=478), included a victim.[22]

[22] However, as will be discussed in the section on charging, not all domestic violence cases appear to have a victim. For example, an accused might be convicted of assaulting his/her intimate partner and receive a probation order with a condition of not consuming alcohol/drugs. There are domestic violence cases where the accused may be picked up by police, under the influence of alcohol, breaching the probation order, resulting in an additional domestic violence case.

Table 7: Gender of Victim

	Moncton		Fredericton		Total	
Gender	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Male	12	(49)	5	(4)	11	(53)
Female	88	(350)	95	(75)	89	(425)
Total	100	(399)	100	(79)	100	(478)

N=478

Note(s):
Percentages may not total 100% due to rounding.

There were significant differences in domestic violence cases in the Moncton and the Fredericton courts, where 12 percent of the Moncton court cases had male victims, compared with five percent in Fredericton court cases. The Moncton court could more easily track domestic violence related offences, regardless of the gender of accused. In the Fredericton court, where domestic violence cases were processed within the regular court system, it was more difficult for provincial officials to identify domestic violence cases.

Table 8 provides the mean and median ages of victims from the greater Moncton and Fredericton domestic violence cases. Overall, the mean and median was 32 years for victims. However, in Moncton, the victims were slightly older in terms of mean (33 in Moncton, 30 in Fredericton) and median (33 in Moncton, 28 in Fredericton).

Table 8: Age of Victim

	Moncton	Fredericton	Total
Mean	33 years	30 years	32 years
Median	33 years	28 years	32 years
Total	(348)	(55)	(403)

N=403

Statistics Canada reports on all forms of violence; a large percentage of victims are in their twenties, thirties, and forties, with few reports from the senior population (Statistics Canada, 2009). Table 9 shows the age breakdown for victims at the time of incident. Most were young

to middle aged: 81 percent of all victims ranged in age from 20 to 44. Only seven percent of all victims were over the age of 50. While there was little difference in victim age in domestic violence cases in the Moncton and the Fredericton courts, there was a higher percentage of victims from the greater Fredericton area under the age of 20 (9% in Moncton, 15% in Fredericton), but very few victims from the greater Fredericton area over the age of 50 (7% in Moncton, 2% in Fredericton).

Table 9: Age of Victim at Time of Incident

	Moncton		Fredericton		Total	
Age	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Under 20	9	(31)	15	(8)	10	(39)
20 to 24	16	(55)	22	(12)	17	(67)
25 to 29	15	(54)	18	(10)	16	(64)
30 to 34	16	(56)	9	(5)	15	(61)
35 to 39	22	(77)	15	(8)	21	(85)
40 to 44	11	(37)	16	(9)	11	(46)
45 to 49	4	(14)	4	(2)	4	(16)
50 to 54	3	(11)			3	(11)
55 to 59	2	(7)	2	(1)	2	(8)
60 to 64	1	(2)			1	(2)
65 and older	1	(4)			1	(4)
Total	100	(348)	100	(55)	100	(403)

N=403

Note(s):
Percentages may not total 100% due to rounding.

Relationship between the Accused and Victim

Research has shown that ending a relationship is a time when a victim is more vulnerable and at risk of abuse (D. K. Anderson & Saunders, 2003; K. L. Anderson, 1997; Romans, Forte,

Cohen, Du Mont, & Hyman, 2007; Websdale, 1999). There were various forms of intimate partner relationships in the domestic violence cases from the Moncton and the Fredericton courts. The relationship status between the accused and the victim has been categorized as either current or ex-partners: 1) current relationship included married couples, common-law couples, and dating partners, and 2) relationships with an ex included couples who had divorced, separated, ended a common-law relationship, or ended a dating relationship.

Before conducting the analysis of the Moncton and Fredericton courts, it is important to reemphasize the differences in tracking domestic violence cases in Moncton and Fredericton courts. While domestic violence cases of all accused entering the domestic violence court in Moncton were provided to researchers, domestic violence cases from the greater Fredericton area were based on identified relationship characteristics. As such, it may have been easier to locate domestic violence cases when there was a clear relationship identified between the victim and the accused.

Table 10 examines the relationship between the victim and accused. Ninety-one percent of the domestic violence cases identified the relationship between the victim and the accused (91% in Moncton, 87% in Fredericton).[23] However, recordings on the relationship status were not always consistent.[24] Overall, 52 percent of the cases involved current partner, 48 percent involved ex-partners. In the domestic violence cases processed in the Moncton court, there were lower percentages of current partners than in the Fredericton domestic violence cases (51% in Moncton, 59% in Fredericton).

[23] In such cases, the relationship may have not been identified. In other cases, a victim may not have been identified. For example, an accused may have breached his/her probation related to a domestic violence charge. The accused may have been found drinking alcohol in public.

[24] For example, in some cases, a victim may be referred to as an ex-girlfriend in one place in the case, but recorded as an ex-common-law partner in another. A methodological decision was made to record the relationship of higher commitment in cases where there were any such discrepancies. For example, in a case where the victim was identified as both an ex-girlfriend and an ex-common-law partner, the relationship was recorded as an ex-common-law relationship.

Table 10: Relationship between Victim and Accused

	Moncton		Fredericton		Total	
Relationship	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Current partner	51	(188)	59	(41)	52	(229)
Ex-partner	49	(183)	41	(29)	48	(212)
Total	100	(371)	100	(70)	100	(441)

N=441

Note(s):
Percentages may not total 100% due to rounding.

Use of Substance

There is a wealth of research exploring the consumption of alcohol and domestic violence related offence (Foran & O'Leary, 2008; Galvani, 2004; McKinney, Caetano, Rodriguez, & Koro, 2010). However, drugs and alcohol do not cause violence but can be contributing factors in domestic violence situations (Cavanaugh & Gelles, 2005). From the analysis of police officer notes contained in crown prosecutor files,[25] it was sometimes possible to determine if either the victim or the accused was under the influence of drugs or alcohol at the time of incident. As indicated in Table 11, when drugs and alcohol consumption was recorded in domestic violence cases, it was most often the accused (67%) who was identified as consuming alcohol or using drugs at the time of the incident. This percentage was much greater than when the victim (3%) alone consumed alcohol or used drugs at the time of incident. Table 11 provides a sense of the scene for responding police officers in the greater Moncton and Fredericton areas, especially in regards to the accused. There was a considerable difference between greater Moncton and Fredericton domestic violence cases in terms of usage of substance by accused only: 69 percent in the Moncton court compared to 50 percent from cases in the Fredericton court.[26]

[25] While information on drugs or alcohol may not be present in the police officer notes, it is possible that when police officers arrived on a scene that did not involve drugs or alcohol, they may not note the absence. The majority of crown prosecutor files (66% in Moncton, 68% in Fredericton) do not make any references to alcohol or drugs.
[26] Similarly, police officers note 23 percent of identified crown prosecutor files in Moncton where both the victim and accused were drinking alcohol or using drugs, compared with 39 percent of Fredericton crown prosecutor files.

Table 11: Alcohol Consumption or Drug Usage at Incident

	Moncton		Fredericton		Total	
Alcohol/Drug Usage	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
None present*	5	(7)	8	(2)	5	(9)
Accused usage	69	(104)	50	(13)	67	(117)
Victim usage	3	(4)	4	(1)	3	(5)
Victim and Accused	23	(34)	39	(10)	25	(44)
Present in environment**	1	(1)			1	(1)
Total***	100	(150)	100	(26)	100	(176)

N=176

Note(s):
* "None present" identifies domestic violence cases where police officers noted that no alcohol was present in the environment.
** "Present in environment" identifies domestic violence cases where police officers note that alcohol or drugs were present, but were not consumed by the victim or the accused, but another person at the location.
*** Percentages may not total 100% due to rounding.

Weapons

This section provides an understanding of the use of weapons in domestic violence related offences in the greater Moncton and Fredericton areas. It includes domestic violence frequency of domestic violence cases which included the use of a weapon, forms of weapons used, and the level of risk/injury to the victim.

The use of weapons was documented in 11 percent of the 516 domestic violence cases. Similar findings are found in the greater Moncton and Fredericton areas, where 11 percent of domestic violence cases listed the use of a weapon in both locations. Table 12 provides a breakdown of the kinds of weapons used in the greater Moncton and Fredericton areas. Overall, knives and household objects were the weapons most frequently documented by police officers in the period under study.

Table 12: Use of Weapons

	Moncton		Fredericton		Total	
Weapon	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Rifle/Shotgun	6	(3)	33	(3)	11	(6)
Handgun	9	(4)			7	(4)
Knife	32	(15)	33	(3)	32	(18)
Sharp object	6	(3)			5	(3)
Household object	32	(15)	12	(2)	30	(17)
Other	15	(7)	13	(1)	14	(8)
Total		(47)		(9)		(56)

N=56

Note(s):
Percentages will not total 100% due to use of multiple weapons.

In terms of type of weapon used, 32 percent of all domestic violence cases in the Moncton and the Fredericton courts identified as knife. While 30 percent of domestic violence cases included a household object, there was a higher percentage in the domestic violence cases processed in the Moncton courts (32% in Moncton, 12% in Fredericton). The Moncton and the Fredericton courts both processed three domestic violence cases where a rifle/shotgun was used.

Children[27]

Researchers and advocates are in agreement – intimate partner violence can be harmful to children. Children can be impacted by witnessing violent episodes and by directly experiencing violence. Research shows that intimate partner violence can have wide-ranging consequences for children, ranging from short-term stress, to long-term psychological trauma (Black, Sussman, & Unger, 2009; Loseke, Gelles, & Cavanaugh, 2005; Sternberg, Baradaran, Abbott, Lamb, & Guterman, 2006; Van Horn & Groves, 2006). It is also estimated that children have heard threats or witnessed violence in 37 percent of households where there is intimate partner

[27] All information relating to children was retrieved from Crown prosecutor files, including information about the victim. It is only in section: Victim Information that data is from the Department of Public Safety, Victim Services.

violence (Barker & Cunningham, 2005). Following previous research on the impact of intimate partner violence on children, this study examines the presence of children at the scene of a domestic violence incident and relationship to the accused and victim. Limited information[28] was found about children in the domestic violence cases under study. Many of the cases recorded the presence of children and if contact was been made with *Child Protection Services*. The presence of children was noted in 19 percent of domestic violence cases. Contact with *Child Protection Services* was noted in approximately nine percent of domestic violence cases.[29] It may have been a first contact with *Child Protection Services* or it may have represented an additional contact in an ongoing relationship between the family and *Child Protection Services*.

Risk Assessment

The implementation of the Moncton court involved the adoption of an instrument to assess the risk of danger. The *Brief Spousal Assault Form for the Evaluation of Risk* (B-SAFER) is a tool for police officers to use as a means of assessing risk in both in the past, as well as the current situation of the victim (Department of Justice, 2010). It is a tool geared specifically toward assessing the level of risk of violence in intimate partner relationships and can be utilized regardless of relationship status. It is now being used by police officers in various regions in Canada and has been approved by the government of New Brunswick. Police officers across the province have received training[30] and the use of the instrument to assess risks when responding to incidents involving domestic violence is part of the *Police Based Risk Assessment for Domestic Violence New Brunswick Protocol*. The B-SAFER form includes questions about domestic violence related issues including experience of assault, violent threats, escalation, violation of court orders, negative attitudes, anti-social behavior, intimate relationship problems, substance abuse and mental health concerns. Police officers are provided with a space for conclusory

[28] Seventy percent of the domestic violence cases did not include any information about children (n=305 in Moncton, n=58 in Fredericton).

[29] While this number likely includes many domestic violence cases where there were no children involved or witnesses to any assault, perhaps the couple is childless.

[30] Police officers in the Moncton region have received training on the use of the B-SAFER between February 2007 and January 2008. The coordinator of the Moncton Provincial Court-Domestic Violence pilot project provided information on timing of B-SAFER training. The Codiac RCMP - Dist. #12 and Caledonia RCMP – Dist. #11 received their training in February, March & April 2007. In November 2007, at the closure of the Satellite Provincial Court in Sackville, NB, the domestic violence cases from Sackville became incorporated in the *Moncton Provincial Court-Domestic Violence pilot project*. As a result, RCMP Police Officers of South East District #4 received B-SAFER training in January 2008.

opinions (Department of Justice, 2010) where they evaluate case prioritization, risk of life-threatening violence and risk of imminent violence.

For the 18-month period under study, copies of risk assessment forms were found in 37 percent of all domestic violence cases in the Moncton court, none in the Fredericton court. Risk assessment forms were found in many domestic violence cases, but they were not always completed. For instance, in some cases, only one side of the two sided B-SAFER form was completed. In a few other cases, only one side of the B-SAFER form was provided.

The B-SAFER ends with three overriding questions on safety, looking at the priority they would place on the situation, if the situation is deemed to be life-threatening, and the possibility of imminent violence. Police officers are provided with space to rate the situation as high/urgent, moderate/elevated, or low/routine risk, in their conclusory opinion. Table 13 identifies conclusory opinions police officers made in regards to prioritization, life-threatening, and imminent violence in domestic violence cases.

Table 13: Police Officer Assessment of Risk in Moncton Court

	Prioritization		Life Threatening		Imminent Violence	
Rating	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
High/Urgent	43	(54)	20	(25)	37	(47)
Moderate/Elevated	35	(44)	42	(52)	31	(39)
Low/Routine	22	(28)	38	(47)	32	(40)
Total	100	(128)	100	(124)	100	(126)

N=128

Note(s):
Percentages may not total 100% due to rounding.

B-SAFER –Case Prioritization

One question on the form required the police officer to rate the level they would place on case prioritization, asking "What is the level of concern that the person will commit spousal violence in the future if no intervention is taken?" As is shown in Table 13, in 43 percent of all cases with a B-SAFER form included, police officers rated the calls as high/urgent on prioritization.

This means that police officers identified these cases as situations where violence was likely to reoccur.

B-SAFER – Life-Threatening Violence

Similarly, police officers assessed the risk that accused may be a threat to the life of the victim: "What is the level of concern that any future spousal violence will involve life-threatening physical harm if no intervention is taken?" As is indicated in Table 13, it was most common for the police officer to rate this question in the moderate/elevated range.

B-SAFER – Imminent Violence

Assessing risk also involved police officers rating the likelihood of imminent violence. The final column on Table 13 provides police officer response to the question: "What is the level of concern that the person is an imminent risk to commit spousal violence if no intervention is taken?" While almost evenly split among the options provided on the B-SAFER form, the most frequent response was high/urgent, at 37 percent. This suggests that police officers saw variations in domestic violence situations – they categorized some calls as high/urgent, others as moderate/elevated, and still others as low/routine.

Gender

In the examination of risk assessment, it is of interest to look at gender differences. While the numbers are small for completed B-SAFER on female accused, police officers in the greater Moncton area rated men much higher on the likelihood of imminent violence, compared to women who were most frequently rated as low/routine risk.[31] Similarly, female accused were much more likely than male accused to be rated low/routine on the question asking about life-threatening behavior. Table 14 indicates how police officers varied in their assessment of female and male accused of domestic violence related offences. Male accused were most likely to be evaluated as high/urgent on prioritization, at 46 percent, while only nine percent of female accused were rated as high/urgent. Similarly, 21 percent of male accused were rated as high/urgent on the question assessing the rating on life threatening. Finally, 40 percent of male accused were rated as high/urgent on the imminent violence scale compared to nine

[31] Some crown prosecutor files with B-SAFER forms did not have all risk assessment questions completed. For example, the question on imminent violence was missing from eight percent of accused women and from 11 percent of accused men.

percent of female accused. Aligning with research findings often concluding that women are more likely to be in danger of greater injury (Whitaker, Haileyesus, Swahn, & Saltzman, 2007), the cases processed, that include the completion of the B-SAFER by the responding police officer, identified a higher percentage of male accused as being more of a risk than female accused.

Table 14: Police Officer Assessment of Risk, by Gender of Accused in Moncton Court

	Prioritization				Life Threatening				Imminent Violence			
	Male		Female		Male		Female		Male		Female	
Rating	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
High/Urgent	46	(53)	9	(1)	21	(24)	9	(1)	40	(46)	9	(1)
Moderate/Elevated	33	(38)	55	(6)	45	(51)	9	(1)	32	(37)	18	(2)
Low/Routine	21	(24)	36	(4)	34	(38)	82	(9)	28	(32)	73	(8)
Total	100	(115)	100	(11)	100	(113)	100	(11)	100	(115)	100	(11)

N=115

Note(s):
Percentages may not total 100% due to rounding.

Charges

As is explained in the methodology section, an exhaustive list of charges related to domestic violence related offences[32] are encompassed in this report. This section explores specific charges that have been processed by the Moncton and the Fredericton courts, the number of counts per individual charge, charge categories, and dual charges.

[32] These charges include: first degree murder, second degree murder, attempted murder, manslaughter, assault with a weapon, aggravated assault, assault causing bodily harm, aggravated sexual assault, sexual assault threats/bodily harm/weapon, sexual assault, criminal harassment/stalking, common assault/assault, assaulting a police officer, uttering threats, forcible confinement, choking to overcome resistance, possession of weapon dangerous to public peace, pointing a firearm, possession of a prohibited weapon, breach of recognizance/fail to comply, breach of probation, breach of court order/protection order/peace bond, break and enter, break and enter with intent, forcible entry, unlawfully in a dwelling, theft, robbery, mischief, causing a disturbance, harassing/annoying phone calls, sexual interference, invitation to sexual touching, sexual exploitation, indecent assault, gross indecency, incest, anal intercourse, buggery, obstructing justice, careless storage of a firearm, administering noxious substance, indecent act, criminal negligence causing bodily harm, breach of Family Services Act/Maintenance Act, and abduction. There is one variable to capture all other charges that are not otherwise included in the list of charges.

Charge Counts

Table 15 indicates that the most common charge in Moncton and Fredericton domestic violence cases was an assault charge, followed by threats and breaches. This is similar to findings from both Canada and the USA, where the majority of domestic violence cases include an assault charge (Smith & Farole, 2009; Statistics Canada, 2009). A total of 209 domestic violence cases in the Moncton court and 50 domestic violence cases in the Fredericton court included common assault charges. However, what is most noteworthy is that many accused were charged with more than one count of the same charge. For example, in looking at common assault charges in the Moncton court, 164 domestic violence cases had only one count. This means that an accused was charged with only one common assault in the domestic violence case. In another 32 domestic violence cases, there was documentation of two charges of common assault, which means that within the same case, an accused was charged with two counts of an assault. This accused committed two different common assaults to be processed within the case. Within the 18-month period under study, one case included five counts of a common assault charge. This is an accused where the police officer laid five separate common assault charges in the same case.

While an extensive list of charges was used to collect information on a wide range of charges related to domestic violence, certain charges rarely appeared in either the greater Moncton or Fredericton domestic violence cases. For instance, there were only four domestic violence cases with aggravated assault charges, all of which have been processed in the Moncton region. Similarly, there were only three domestic violence cases with an accused being charged with being unlawfully in a dwelling, all in the greater Moncton area. In the entire dataset, there was only one case with a second degree murder charge, one case with a sexual interference charge, one case with an incest charge, and one case with a criminal negligence causing bodily harm charge. In the vast majority of cases, police officers in both the Moncton and the Fredericton regions charged the accused with common assault, uttering threats, or breach of recognizance or probation.

As discussed in the methodology section, this report includes a category to capture all other charges not included in the categories selected for analysis.[33] There were a total of 32 domestic

[33] For example, domestic violence cases where police officers have included charges related to impaired driving.

violence cases in the Moncton court and five domestic violence cases in the Fredericton court that include such "other" charges. Generally, there was only one count per case. However, in nine cases (8 in Moncton, 1 in Fredericton), there were two counts of other charges.

Table 15 provides the total number of domestic violence cases with each charge, as well as the number of counts per charge in each case. This is an important component to the analysis as it demonstrates the range of individual charges used in both the Moncton and the Fredericton courts, as well as how often police officers laid more than one count per charge. In addition to the number of counts per charge, many domestic violence cases had more than one form of charge. For example, if an accused had a prior conviction of assaulting his/her partner and had been placed on probation, if he/she committed another assault, the resulting case would have included a charge for the assault, a charge for breaching the probation order, and any other charge that is appropriate for the offence he/she allegedly committed. Any one of the total of 516 cases could possibly be found with more than one charge. As a result, any calculations on percentages using Table 15 will not add to 100 percent total.

Table 15: Charges, by Number of Counts Per Case

	NUMBER OF COUNTS IN CASE										
	Moncton							Fredericton			
Charge	**1**	**2**	**3**	**4**	**5**	**6**	**Total**	**1**	**2**	**3**	**Total**
Common assault	164	32	10	2	1		**209**	47	3		**50**
Uttering threats	143	34	5	2		1	**185**	24			**24**
Breach of recognizance	61	16	4	3			**84**	11		1	**12**
Breach of probation	57	16	1				**74**	6			**6**
Assault causing bodily harm	28	3					**31**	2			**2**
Criminal harassment	27	2	2				**31**				
Mischief	27	1					**28**	3			**3**
Assault with a weapon	20	1					**21**	5			**5**
Forcible confinement	13						**13**	1			**1**
Harassing phone calls	12						**12**				
Sexual assault	9	1					**10**	2			**2**
Break and enter with intent	8						**8**				
Break and enter	7						**7**				
Theft	5	2					**7**				
Forcible entry	6						**6**				
Obstructing justice	5	1					**6**				
Aggravated assault	4						**4**				
Prohibited weapon	4						**4**				
Causing disturbance	4						**4**				
Breach of court order	3						**3**				
Unlawfully in dwelling	3						**3**				
Attempted murder	1	1					**2**				
Sexual assault causing bodily harm	1	1					**2**				
Assault police officer	1	1					**2**				
Choking	2						**2**				
Second degree murder	1						**1**				
Sexual interference	1						**1**				
Incest	1						**1**				
Criminal negligence causing bodily harm	1						**1**				
Pointing a firearm								1			**1**
Careless storage of a firearm	3	1					**4**				
Other	24	8					**32**	4	1		**5**

Charge Categories

While a complete list of charges is identified in Table 15 to provide the reader with an opportunity to appreciate charges in domestic violence cases, for analytical purposes, similar charges are combined to explore trends in charging, sentencing, and re-offending. By combining some charges, this report tracks significant relationships using similar charges.

Table 16 highlights the charge categories selected for this stage in the analysis. This table provides combined charges, showing that assault, threat and breach charges were the most common domestic violence related offence processed in the Moncton and the Fredericton courts. Fifty-four percent of all cases included an assault charge (52% in Moncton, 65% in Fredericton), 41 percent included a threat charge (42% in Moncton, 33% in Fredericton), and 34 percent included a breach charge (36% in Moncton, 21% in Fredericton). Within the 18-month period, there were three cases with a murder or attempted murder charge, all in the Moncton court. Additionally, three percent of cases had sexual assault related charges. As one case might have had a confinement charge, a breach charge, and/or an assault charge, the total number listed in Table 16 will not necessarily match the sum from the previous table.[34]

[34] The charges listed will not necessarily reflect the total number of all individual charges that are included in the combined charges. For example, one case might include more than one charge. It would appear as two charges in the charge table, but as only one case in the combined sexual assault table.

Table 16: Charges

	Moncton		Fredericton		Total	
Charge	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Assault*	52	(227)	65	(52)	54	(279)
Threat*	42	(185)	33	(26)	41	(211)
Breach*	36	(156)	21	(17)	34	(173)
Harassment*	16	(69)	4	(3)	14	(72)
Theft or break and enter*	6	(26)			5	(26)
Assault with a weapon	5	(21)	6	(5)	5	(26)
Sexual assault	3	(13)	3	(2)	3	(15)
Confinement	3	(13)	1	(1)	3	(14)
Other weapon charge	1	(6)			1	(6)
Murder or attempted murder	1	(3)			1	(3)
Other	7	(32)	6	(5)	7	(37)
Total		(436)		(80)		(516)

N=516, *p<.05

Note(s):
Assault includes common assault; assault causing bodily harm; aggravated assault and choking; **threat** includes uttering threats; **breach** includes breach of probation, breach of a court order and breach of recognizance charges; **harassment** includes criminal harassment, harassing phone calls, causing a disturbance and mischief charges; **theft/break and enter** includes theft, break and enter, break and enter with intent, forcible entry and being unlawfully in a dwelling charges; **sexual assault** includes sexual interference, incest, sexual assault causing bodily harm, and sexual assault charges; **confinement** includes forcible confinement charges; **other weapon charges** includes possession or a prohibited weapon and careless storage of a firearm charge; **murder/attempted murder** includes second degree murder and attempted murder charges; and **other** includes all charges not otherwise identified.
Percentages will total 100% due to multiple responses.

Dual Charges

Researchers in the field are interested in examining relationships between mandatory arrest policies and domestic violence cases resulting in dual arrest, to understand the impact of changes to arrest and charging policies (Department of Justice, 2003; Dinovitzer & Dawson, 2007; Finn & Bettis, 2006; Hirschel & Buzawa, 2002; Houry, Reddy, & Parramore, 2006; Leisenring, 2008). In each domestic violence case under study in the Moncton and the

Fredericton courts, there was only one accused. However, in some cases, the police officer charged both parties and created two separate cases. In one case, the individual was identified as the accused; in the other case, the same individual was identified as the victim. Table 17 shows the incidents where police officers charged both individuals. There was a total of seven couples in Moncton court and one couple in Fredericton court where dual charges were laid, which is proportional to the overall dataset. Moncton court domestic violence cases represented 85 percent of the completed database of cases for study; the percent of dual charging in the Moncton court was only slightly higher at 88 percent of the dual charging cases. Sixty-three percent of dual charging cases (57% in Moncton, 100% in Fredericton) were situations where the parties were in a current relationship. In 38 percent of the dual charging cases, the couple had separated[35].

Table 17: Couples with Dual Charges, by Relationship Status

	Moncton		Fredericton		Total	
Relationship Status	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Current Partner	57	(4)	100	(1)	63	(5)
Ex-Partner	43	(3)			38	(3)
Total	100	(7)	100	(1)	100	(8)

N=491

Note(s):
Percentages may not total 100% due to rounding.

Referring back to Table 2, a total of 480 of the domestic violence cases had male accused and the remaining 36 cases had female accused. When comparing the gendered differences in dual charges, 22 percent of all female accused domestic violence cases were identified as a dual charge. This number was much lower for men involved in dual charges cases. In fact, less than two percent of all domestic violence cases, where men were the accused, were identified as dual charge. When women were charged, they were over 11 times more likely to be part of a dual charge than when men were charged for a domestic violence related offence.

[35] Looking at dual charging when studying domestic violence related charges shows the complexity of identifying the primary aggressor in a situation. The number of dual charges in the study are very small but it should be highlighted. Previous research shows an exponential increase of dual charging with the establishment of specialized court. In fact, the small numbers in this study reveal that police officers have a better understanding of the issues and are able to better assess the situation.

Court Processing

It is well documented that victims are at greater risk of further violence when they leave an abusive relationship, a period that can coincide with the entry of the accused in the court system (Campbell, 2007; Drouin & Drolet, 2004). Therefore, it is important to examine how timely accused were processed in the system, specifically how long it took for an accused to make a first appearance in court, as well as the length of time it took for the accused to receive a verdict and sentencing.

First Appearance

Table 18 shows the mean and median time from incident to first appearance in court. On average, it took approximately 39 days for an accused to make a first appearance in court, with a median of 12 days. There was a significant difference in the time from incident to court appearance in the Moncton and Fredericton regions. In the Moncton court, it took an average of 35 days, while it took an average of 68 days in the Fredericton court. To compare the medians, it was nine days in the Moncton court and 58 days in the Fredericton court.[36]

Table 18: Time from Incident to First Appearance in Court

	Moncton	Fredericton	Total
Mean	35 days	68 days	39 days
Median	9 days	58 days	12 days
Total	(436)	(80)	(516)

N=516, *p<.05

Bail

Accused are held for bail hearings for various reasons. In cases where the accused was held, bail was granted in 37 percent of the cases. In the Moncton court, bail was granted in 38 percent of the cases, compared with 30 percent of the cases in the Fredericton court.

[36] There are several domestic violence cases that include charges which date back many months, or even years in some cases. In such cases, the offence has gone unreported for an extended period of time. Such cases do not represent situations where domestic violence cases were delayed by police officers, crown prosecutor, or any other system delays. The delay in reporting to police officers resulted in the delay in the first court appearance.

Table 19: Accused Granted Bail

	Moncton		Fredericton		Total	
	%	(n)	%	(n)	%	(n)
Yes	38	(66)	30	(3)	37	(69)
No	62	(109)	70	(7)	63	(116)
Total	100	(175)	100	(10)	100	(185)

N=185

Note(s):
Percentages may not total 100% due to rounding.

Time in Court Process

Many studies explore the benefits of a speedy court process, with a goal of increasing safety for victims and reducing re-offending (Busby, et al., 2008; Dawson & Dinovitzer, 2008). One of the most significant findings in this report is the difference in the time spent in the court process between the Moncton and the Fredericton courts. In examining the time that laps between a first appearance in the Moncton court to sentencing, it took a median of 77 days to reach the disposition, compared to 168 days in the Fredericton court. The mean, which can be attributed to cases which were in front of the court for an extended period of time, was significantly different in the Moncton and the Fredericton courts. It was 114 days in the Moncton court and 166 days in the Fredericton court.

Table 20: Time from First Appearance to Sentencing

	Moncton	Fredericton	Total
Mean	114 days	166 days	121 days
Median	77 days	168 days	85 days
Total	(372)	(59)	(431)

N=431, *p<.05

With a court monitoring program in the Moncton court, accused periodically appear before the court after sentencing so the judge can monitor progress. The sentencing date does not necessarily mark an end to the appearances of the accused before the court system.

Outcomes

In addition to exploring charges that are found within the domestic violence cases under review, it was important to examine case outcomes. The case outcomes, or the end result of the charges, could have included a peace bond, withdrawal of charge by the crown prosecutor, dismissal of charge by the judge, a guilty plea, a guilty verdict, acquittal, death, or found not being criminally responsible. Table 21 provides a breakdown of the outcomes of the domestic violence cases.

Table 21: Outcomes of Domestic Violence Cases

	Moncton		Fredericton		Total	
Outcome	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Peace Bond	14	(59)	13	(10)	14	(69)
Withdrawn by crown prosecutor	8	(32)	12	(9)	8	(41)
Dismissed by judge	2	(8)	1	(1)	1	(9)
Guilty plea	68	(281)	61	(46)	67	(327)
Guilty verdict	6	(26)	8	(6)	7	(32)
Acquittal	2	(8)	3	(2)	2	(10)
Accused deceased		(1)				(1)
Accused not criminally responsible		(1)	1	(1)		(2)
Total	100	(416)	100	(75)	100	(491)

N=491

Note(s):
Percentages may not total 100% due to rounding.

Peace Bonds - Peace bonds are one tool used in New Brunswick courts as a means of responding to individuals who have requested the assistance of the court system. A peace bond is issued when charges have not been laid against the accused, but require that the accused have no contact with the victim. In other cases, peace bonds are issued requiring both parties to have no contact with the other. There were similar rates of peace bonds in the Moncton and the Fredericton courts, with 14 percent of the overall domestic violence cases resulting in a peace

bond. In the Moncton court, all peace bonds were issued for a length of one year. In the Fredericton court, eight were for one year, one for nine months, and two for six months.

Withdrawal and Dismissal - On average, eight percent of all domestic violence cases ended with a withdrawal by the crown prosecutor. In comparing differences in withdrawals by crown prosecutors, there are similar percentages of domestic violence cases ending with the crown prosecutor withdrawing the charges (8% in Moncton, 12% in Fredericton). In other cases, although the crown prosecutor determined that there was sufficient evidence to proceed with the charges, the court ultimately decided to dismiss an additional one percent of the total cases. Two percent of the cases ended in dismissal in the Moncton court and one percent in the Fredericton court.

Guilty Pleas/Verdict - The majority of the domestic violence cases were approved by the crown prosecutor and processed through the court system. The outcome in 67 percent of all domestic violence cases ended with the accused choosing to enter a guilty plea. A guilty plea could have occurred at any point in the court process. The percentage of cases where an accused received a guilty verdict was far less than cases where the accused entered a guilty plea, in seven percent of the total domestic violence cases. Guilty verdicts occurred in six percent of the Moncton court domestic violence cases, compared with eight percent of the Fredericton court domestic violence cases.

Other - While the majority of domestic violence cases processed ended with the accused pleading or being found guilty, the outcomes also included acquittals, accused dying before a final outcome, and accused being found not criminally responsible. Overall, two percent of domestic violence cases ended in acquittal. In three other cases, one accused died before a verdict could be reached, while two others were found to be not criminally responsible.

Acquittals

Table 22 contains charges, laid by police officers, which resulted in the acquittal of the accused. As is indicated in Table 21, two percent of the domestic violence cases ended in acquittal. In the period under study, the only domestic violence case with a murder charge ended in acquittal. Approximately four percent of harassment charges, theft or break and enter charges,

and assault with a weapon charges ended in acquittal. One percent of assault charges, threat charges and breach charges ended in acquittal.

Table 22: Charges Resulting in Acquittals

	Moncton		Fredericton		Total	
Charge	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Assault	2	(4)			1	(4)
Threat	1	(1)	4	(2)	1	(3)
Breach	1	(2)			1	(2)
Harassment	4	(3)			4	(3)
Theft or break and enter	4	(1)			4	(1)
Assault with a weapon			6	(1)	4	(1)
Sexual assault						
Confinement						
Other weapon charge						
Murder or attempted murder	33	(1)			33	(1)
Other						
Total	2	(8)	3	(2)	2	(10)

N=10

Note(s):
Assault includes common assault; assault causing bodily harm; aggravated assault and choking; **threat** includes uttering threats; **breach** includes breach of probation, breach of a court order and breach of recognizance charges; **harassment** includes criminal harassment, harassing phone calls, causing a disturbance and mischief charges; **theft/break and enter** includes theft, break and enter, break and enter with intent, forcible entry and unlawfully in a dwelling charges; **sexual assault** includes sexual interference, incest, sexual assault causing bodily harm, and sexual assault charges; **confinement** includes forcible confinement charges; **other weapon charges** includes possession or a prohibited weapon and careless storage of a firearm charge; **murder/attempted murder** includes second degree murder and attempted murder charges; and **other** includes all charges not otherwise identified.
Percentages will not total 100% due to multiple charges.

Sentencing

The following sub-sections explore the various forms of sentencing in the Moncton and the Fredericton courts, ranging from an absolute discharge, to a fine, to incarceration. Before discussing the sentencing, it is necessary to clearly define specific charges in order to

understand sentencing by judges. According to JURISTAT (Hibbitts, 2002), specific sentences are defined as follows:

> *Absolute Discharge*: "Instead of convicting an accused, a sentencing judge in a proper file may grant an absolute discharge, which has the effect of there never having been a conviction;"
>
> *Conditional Discharge*: "Instead of giving an absolute discharge, a sentencing judge may grant a conditional discharge. When the conditions are satisfied, the discharge becomes absolute;"
>
> *Conditional Sentence*: "A sentence of less than two years ordered to be served in the community subject to a probation order;"
>
> *Suspended Sentence*: "After conviction, a judge may suspend the passing of sentence for a fixed period with or without a probation order. Upon expiration of the period without further offences, there will be no sentence;"
>
> *Probation*: "A court order made as part of a sentence requiring the accused, in lieu of or in addition to a fine or term of imprisonment, to keep the peace and be of good behaviour and do such other things as the court requires."
>
> *Incarceration*: "To be imprisoned (Province of New Brunswick, 2009a)."

Sentencing ranged from absolute discharges to incarceration in the Moncton and the Fredericton courts. In many cases, the accused who pled or were found guilty received more than one form of sentencing. For example, the accused might have been sentenced to a specified time of incarceration, followed by supervised probation. Additionally, fines are often included with other penalties as part of the sentence.

As shown in Table 23, 50 percent of sentences during the period under study included supervised probation. Incarceration, occurring in 26 percent of domestic violence cases, was the next most common sentence. The courts rarely gave an accused an absolute discharge; only four cases, all in Moncton, ended in an absolute discharge. As accused who have pled or

were found guilty may have received more than one sentence, the sentences listed in Table 23 will not add to 100 percent.

Table 23: Sentences

	Moncton		Fredericton		Total	
Sentence	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Absolute discharge	1	(4)			1	(4)
Conditional discharge*	14	(61)	6	(5)	13	(66)
Conditional sentence	10	(42)	5	(4)	9	(46)
Incarceration	27	(116)	21	(17)	26	(133)
Intermittent incarceration	3	(11)	5	(4)	3	(15)
Suspended sentence	14	(60)	18	(14)	14	(74)
Supervised probation	51	(222)	62	(37)	50	(259)
Unsupervised probation	2	(9)	5	(4)	3	(13)
Fine*	10	(43)	21	(17)	12	(60)
Total		(436)		(80)		(516)

N=516, *p<.05

Note(s):
Percentages will not total 100% due to multiple sentences.

There are interesting differences in the kinds of sentences handed down by the Moncton and the Fredericton courts. For instance, the Moncton cases had a higher percentage of accused sentenced to a conditional discharge (14% in Moncton, 6% in Fredericton). Fredericton court domestic violence cases had a higher percentage of accused sentenced to an intermittent incarceration (3% in Moncton, 5% in Fredericton), a suspended sentence (14% in Moncton, 18% in Fredericton), supervised probation (51% in Moncton, 62% in Fredericton), and unsupervised probation (2% in Moncton, 5% in Fredericton). Additionally, the Fredericton court was more likely to impose a fine in their sentencing (10% in Moncton, 21% in Fredericton).

Length of Sentence

Incarcerations

Table 24 shows that the overall median incarceration was 60 days (60 in Moncton, 55 in Fredericton). There was a difference in the mean (or average); sentences of incarceration were an average of 146 days in the Moncton court, compared with 72 days in the Fredericton court. Sentences of multiple years increased the mean by approximately two weeks in the Fredericton court, and 80 days in the Moncton court.

Table 24: Length of Incarceration Sentence

	Moncton	Fredericton	Total
Mean	146 days	72 days	136 days
Median	60 days	55 days	60 days
Total	(126)	(20)	(146)

N=146

Conditional Sentence

Table 25 shows conditional sentence lengths, which averaged 228 days, with a median of 180 days. There was little difference in the length of conditional sentences in Moncton and in Fredericton court domestic violence cases. The Moncton court had a mean length of 224 days compared with 270 in the Fredericton court. The median in both locations was 180 days.

Table 25: Length of Conditional Sentence

	Moncton	Fredericton	Total
Mean	224 days	270 days	228 days
Median	180 days	180 days	180 days
Total	(42)	(4)	(46)

N=46

Probation

On average, probation lengths found within the domestic violence cases had a mean of 16 months, a median of 1 year. As Table 26 shows, there was little difference in the probation length between the Moncton and the Fredericton courts. Domestic violence cases in the Moncton court had an average length of 16 months, compared with 17 months in the Fredericton court. Both locations had medians of one year.

Table 26: Length of Probation

	Moncton	Fredericton	Total
Mean	16 months	17 months	16 months
Median	12 months	12 months	12 months
Total	(231)	(41)	(272)

N=272

Probation Conditions

Many sentences included probation conditions, often subjecting the accused to numerous conditions. Common conditions included some form of psychological treatment, abstinence from all forms of contact with the victim, abstinence from alcohol or use of non-prescribed drugs, specifically if alcohol or drugs had been mentioned by the responding police officer. Being found in violation of any of the conditions would have resulted in being charged with a breach.

Table 27 contains probation conditions. While the probation length might have been similar in the Moncton and the Fredericton courts, there was a significant difference in the kind of probation requirements in the domestic violence cases. Overall, the most common condition

was participating in a form of psychological treatment, which could have included Mental Health services, attending a domestic violence program, or other counselling services. Psychological treatment was a requirement in 74 percent of all cases. Over half (53%) of the probation conditions included no-contact with the victim. Moncton court domestic violence cases were more likely to have a no-contact with victim than were Fredericton court domestic violence cases (57% in Moncton, 34% in Fredericton). Similarly, while 37 percent of all cases indicated that the accused must abstain from alcohol (as well as non-prescribed drugs), the domestic violence cases from the Moncton court were more likely to have this condition than are the domestic violence cases in Fredericton (40% in Moncton, 17% in Fredericton). Additionally, only domestic violence cases in Moncton included conditions of not possessing firearms (28%). Community service was less likely to be a condition in the Moncton court (1% in Moncton, 17% in Fredericton). Gambling addiction treatment was only included in domestic violence cases from the Fredericton court (5%).

Table 27: Probation Conditions within Probation Sentence Cases

	Moncton		Fredericton		Total	
Condition	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Psychological treatment	75	(173)	68	(28)	74	(201)
Alcohol addiction treatment program*	14	(33)	27	(11)	16	(44)
Gambling addiction treatment program*			5	(2)	1	(2)
No contact with victim*	57	(131)	34	(14)	53	(145)
Contact for access to children only	7	(16)	2	(1)	6	(17)
Firearm conditions*	28	(64)			23	(64)
No alcohol consumption*	40	(93)	17	(7)	37	(100)
Restitution	1	(2)	5	(2)	2	(4)
Community service*	1	(2)	17	(7)	3	(9)
Other conditions	55	(127)	63	(26)	56	(153)
Total		(231)		(41)		(272)

N=316,* p<.05

Note(s):
Percentages will total 100% due to multiple conditions.

In summary, the Moncton and the Fredericton courts had different requirements for conditions of probation. The Moncton court was more likely than the Fredericton court to have probation conditions of no contact with the victim, abstaining from alcohol consumption (and non-prescriptions drugs), and no firearms. In the Fredericton court, gambling addiction treatment programs, and community services were more common than they are in the Moncton court.

Court Monitoring

As a growing number of courts are requiring court monitoring as part of the sentence, studies are beginning to examine the impact on offenders of participating in this process (Rempel, Labriola, & Davis, 2008). In Canada, the Yukon Domestic Violence Treatment Option Court is a treatment court model that conducts judicial reviews of defendants during treatment. In the Moncton court, a protocol in relation to court monitoring was established. Court monitoring occurs at the time of interim release, referred to as bail monitoring, and/or once a sentence has

been imposed. The intent of court monitoring is to emphasize offender accountability to rehabilitative measures imposed in court ordered conditions[37]. The Moncton court is a unique model in Canada, monitoring imposed conditions on offenders. The court may require that an accused appear in court for monitoring sessions, usually following sentencing. In high risk domestic violence cases, the accused were brought in for court monitoring during the court process. At the time of sentencing, a first monitoring session was scheduled at six weeks from the date of sentence.[38] For incarcerated offenders, who must also serve a period of probation with an imposed court monitoring condition, a first monitoring date was set within 15 days of release.[39] However, there were cases where court monitoring was postponed to another date due to the high numbers of offenders.

Typically, the Moncton court would require between one and three monitoring sessions, most frequently requiring the accused to appear on two separate occasions. As Table 28 indicates, in 21 percent of cases, the accused appeared before the court for monitoring only one time. In 41 percent of cases the accused made two appearances. In two cases, there were dates for eight separate appearances before the judge. In cases where the accused was required to appear for numerous court monitoring sessions, the court had deemed that they remained enough of a risk that they must return for additional monitoring. When perceived as needed, the court may have required additional monitoring sessions.

[37] The Moncton court is not considered a treatment-based court.
[38] During the first court monitoring, the probation officer provided the court with a brief verbal report on the offender's progress. Thereafter, the court determined future monitoring sessions through the recommendation of the probation officer.
[39] The court may have imposed court monitoring at the time of an interim judicial release commonly referred to bail monitoring, setting a monitoring schedule and directing the accused to report accordingly. The accused was entirely responsible to the court and for any information sought by the court.

Table 28: Number of Required Court Monitoring Sessions

Number of Court Monitoring Sessions	%	(n)
1	21	(27)
2	41	(53)
3	22	(28)
4	9	(12)
5	5	(7)
6		
7		
8	2	(2)
Total	100	(129)

N=129

Note(s):
Percentages may not total 100% due to rounding.

Victim Information

The focus of this report is on the court processing of domestic violence cases, primarily examining data on the accused.[40] However, gaining an understanding of services used by victims while the accused is in the court process provides a clearer picture of court response to domestic violence cases. This section provides information on: data collected from the domestic violence cases, particularly submission of victim impact statements, and information from the *Department of Public Safety (Victim Services)* on the assistance provided to victims.

Victim Impact Statements

By using information contained in domestic violence cases, it was possible to gather information on victim contact with the court system and completion of victim impact statements. In almost half of all cases (47%), it was recorded that a victim impact statement was requested of the victim. Twenty-one percent of domestic violence cases included a completed victim impact statement.

[40] Domestic violence cases are incident based (compiling information on the accused and evidence of offences). There is little information on victims in domestic violence cases, from either the Moncton or Fredericton courts.

Table 29: Victim Contact with Court System

	Moncton		Fredericton		Total	
	%	(n)	%	(n)	%	(n)
Request for Victim Impact Statement	47	(206)	48	(38)	47	(244)
Victim Impact Statement submitted	22	(94)	20	(16)	21	(110)
Total		(436)		(80)		(516)

N=516

Victim Services

While Table 29 shows basic data on victim contact with the court system, it does not offer information on specific services used by victims. In order to supplement basic victim information available in domestic violence cases, the researchers requested information from *Victim Services* on victim usage of their services. Using the form of an Excel spreadsheet, *Victim Services* supplied data on their clients (Table 30), totaling 269 victims who have received services during the 18-month period of study. *Victim Services* records indicated that services included: compensation, counselling, assistance with preparation of victim impact statement, court preparation, and court support.[41]

Table 30: Victims Receiving Assistance from Victim Services

	Moncton		Fredericton		Total	
	%	(n)	%	(n)	%	(n)
Client of Victim Services	52	(141)	48	(128)	100	(269)

N=269

After reviewing the Excel spreadsheet, this information was cross-referenced with the domestic violence cases database. In order to examine services provided to victims while the accused was in the court process, victim information, whenever available, was matched to the domestic

[41] As seeking assistance from Victim Services is voluntary, victims are not compelled to register with Victim Services. Many victims may change their mind after charges related to domestic violence have been laid, some refusing to cooperate with the criminal justice system. Others may seek assistance elsewhere, or do not wish to utilize the support of Victim Services.

violence cases database.[42] As shown in Table 31, 20 percent of all the domestic violence cases analyzed for this study had corresponding information from *Victim Services*.

Table 31: Domestic Violence Cases with Corresponding Victim Services Clients

	Moncton		Fredericton		Total	
	%	(n)	%	(n)	%	(n)
Client of Victim Services	21	(90)	16	(13)	20	(103)
Total		(436)		(80)		(516)

N=516

To determine the amount of time that a victim spent as a client with *Victim Services*, the date case started (time from their first recorded appointment) with *Victim Services* until the completion date of services (the last recorded appointment) with *Victim Services* was examined. Table 32 shows the average time (257 days) spent with *Victim Services*. Based on the information on victims with corresponding domestic violence cases, there were differences in the time spent with *Victim Services* in the greater Moncton and Fredericton areas. In the Moncton region, victims spent an average of 274 days with *Victim Services* compared with 138 days with *Victim Services* in the Fredericton region. There was a greater variance when comparing the median. Interestingly, in the Moncton region, the median was 273 days whereas the median in the Fredericton region was 92 days.

[42] As this process includes only the victims where there is a matching domestic violence case in the court system, all other victims were not included in further analysis.

Table 32: Days as Client with Victim Services (date case starts to completion date of services)

	Moncton	Fredericton	Total
Mean	274 days	138 days	257 days
Median	273 days	92 days	270 days
Total	(66)	(9)	(75)

N=75, *p<.05

By examining victim information from the domestic violence cases, there was documentation that victims have been contacted for victim impact statements in approximately half of all domestic violence cases. In situations where the victim was contacted, a victim impact statement was submitted in approximately half of the domestic violence cases, giving the victim a voice during the sentencing portion of the court process. Many victims received assistance from *Victims Services*, ranging for compensation to court support. Some returned for many appointments, remaining a client with *Victim Services* for an average of four months.

Table 33 below shows the type of assistance victims sought from Victim Services while accused were in the court system. Victim Services assists victims of all crime by offering : trauma and short term counseling, compensation, court preparation and support and, follow-up after court process. Table 33 is based on information only on victims with corresponding domestic violence cases as described above in Table 31.

Table 33: Type of Assistance to victims from Victim Services while accused is in the justice system

	Moncton		Fredericton		Total	
Type of assistance	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Compensation	37	(108)	15.6	(5)	34.9	(113)
Counseling	35.3	(103)	18.8	(6)	33.6	(109)
Victim Impact Statement	18.8	(55)	56.3	(18)	22.5	(73)
Court preparation	6.5	(19)			5.9	(19)
Court support	2.4	(7)	9.4	(3)	3.1	(10)
Total		(292)		(32)		(324)

N= 81 victims
N= 324 number of times victims have sought support from Victim Services
Note(s):
Percentages will not total 100% due to use of multiple assistance received.

The type of assistance[43] received from victims in Moncton is mainly related to compensation and counseling (72%), while in Fredericton, victims received assistance for victim impact statement (56%). Difference between the two locations is the number of time victims seek support from Victim Services: 68 victims in Moncton were supported 292 times and 13 victims in Fredericton were supported 32 times. It shows that Victim Services in Moncton received multiple requests for assistance by victims of domestic violence during the course of the 18-month period of this study. This illustrates that while accused are in the court system some victims need professional support as offered by Victim Services.

Summary of Findings

The findings of the domestic violence cases under review for the Moncton and the Fredericton courts highlights that most accused processed through the system were men; in their twenties, thirties, or forties; many with prior criminal records. The victims generally were females who

[43] Categories of type of assistance in table 33 are directly taken from the wording used in data provided by Victim Services. The category counseling encompasses trauma and short term counseling.

were a couple of years younger than the accused, sometimes a current partner, sometimes an ex-partner.

The context of the domestic violence related offence is also examined. While alcohol consumption was not often included in police officer notes, when it was included, it was generally the male who was described as drinking alcohol (or doing drugs) at the incident. Weapons were not generally used during an incident of domestic violence, but when they were, knives and household objects were most often the weapons that were identified by the responding police officer. Police officers rarely noted the presence of children.

The action taken by the responding police officer is a critical component to this evaluation. When the risk assessment tool, B-SAFER, was completed by the responding officer, they were more likely to assess that violence would be more likely to reoccur. Police officers were most likely to charge the accused with a common assault, uttering threats, or a breach.

Assessing Risk, Charges, and Sentences

The following section focuses specifically on risk assessment, charges, and sentences in the Moncton and the Fredericton courts. It examines relationships between risk assessment, charges and sentences; charges and sentencing; and sentence outcome by mean time in the court process.

Risk Assessments

Risk assessment is a component of police officer intervention, possibly impacting police officer response. According to the objectives of the Moncton court, emphasis is placed on the importance of offender accountability and victim safety.

Risk Assessment and Release by Police

As Table 34 shows, when the police officers assessed an accused to be of heightened danger to the victim, they were more likely to keep the accused in custody for a bail hearing. Using the example of the imminent violence scale, when police officers assessed an accused to be of

high/urgent risk of imminent violence, they released the accused 50 percent of the time.[44] When they assessed an accused to be of low/routine risk of imminent violence, they released almost all of the accused, holding only six percent of them. Similarly, when police officers assessed an accused to be of high/urgent risk on the prioritization or life-threatening scales, the accused were released 36 percent of the time. However, when they assessed the accused to be on the low/routine scale, they were released in 90 percent of the domestic violence cases.

Table 34: Release on Own Recognizance by Police Officer

	Prioritization*				Life Threatening*				Imminent Violence*			
	Yes		No		Yes		No		Yes		No	
Rating	%	(n)	%	(n)	%	(n)	%	(n)	%	(n)	%	(n)
High/Urgent	36	(9)	64	(16)	36	(9)	64	(16)	50	(22)	50	(22)
Moderate/Elevated	70	(35)	30	(13)	70	(35)	30	(15)	72	(28)	28	(11)
Low/Routine	90	(35)	10	(4)	90	(35)	10	(4)	94	(31)	6	(2)
Total	100	(79)	100	(35)	100	(79)	100	(35)	100	(85)	100	(35)

N=120, *p<.05

Note(s):
Percentages may not total 100% due to rounding.

Whether the risk assessed is related to prioritization, risk of life-threatening violence or risk of imminent violence, all result in similar findings. When police officers assessed the accused to be of higher risk, they were less likely to release the accused on their own recognizance.

Risk Assessment and Charging

Table 35 contains domestic violence cases, separating domestic violence cases with specific charges that include a completed risk assessment, B-SAFER, and domestic violence cases with charges that do not include the completion of the risk assessment tool. When police officers completed a risk assessment, they were more likely to press assault charges, threat charges, and breach charges.

[44] It is important to note that even when police officers do release an accused on their own recognizance, it is rarely without conditions. Conditions typically include no contact with the victim, and sometimes will include other conditions such as prohibition of possessing firearms or consuming alcoholic beverages.

Table 35: Charges, by Use of Risk Assessment

	Yes		No		Total	
Charge	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Assault*	68	(111)	48	(168)	54	(279)
Threat*	53	(86)	35	(124)	41	(211)
Breach*	26	(43)	37	(130)	34	(173)
Harassment	10	(17)	16	(55)	14	(72)
Theft or break and enter	6	(10)	5	(16)	5	(26)
Assault with a weapon	5	(8)	5	(18)	5	(26)
Sexual assault	2	(3)	4	(12)	3	(15)
Confinement	3	(4)	3	(10)	3	(14)
Other weapon charges			2	(6)	1	(6)
Murder or attempted murder	1	(1)	1	(2)	1	(3)
Other*	3	(4)	10	(33)	7	(37)
Total		(163)		(353)		(516)

N=516, *p<.05

Note(s):
Assault includes common assault; assault causing bodily harm; aggravated assault and choking; **threat** includes uttering threats; **breach** includes breach of probation, breach of a court order and breach of recognizance charges; **harassment** includes criminal harassment, harassing phone calls, causing a disturbance and mischief charges; **theft/break and enter** includes theft, break and enter, break and enter with intent, forcible entry and unlawfully in a dwelling charges; **sexual assault** includes sexual interference, incest, sexual assault causing bodily harm, and sexual assault charges; **confinement** includes forcible confinement charges; **other weapon charges** includes possession or a prohibited weapon and careless storage of a firearm charge; **murder/attempted murder** includes second degree murder and attempted murder charges; and **other** includes all charges not otherwise identified.
Percentages will not total 100% due to multiple charges.

As Table 35 shows, there was a significant difference in assault, threat, and breach charges. Assault charges represented one of the forms of charges where a significant difference was observed. In 68 percent of all domestic violence cases with an assault charge, a risk assessment had been completed. This compares with 48 percent of assault charge cases which did not have a completed risk assessment. Similar results were also found when examining the relationship between the completion of the risk assessment tool and threat related charges (53%).

Risk Assessment and Sentencing

In addition to the relationship that exists between completion of risk assessment and charges, there was also a relationship between the completion of B-SAFER and sentencing (Table 36).[45] It should be noted that in all domestic violence cases resulting in acquittals, none had a B-SAFER form.

Table 366: Sentences, by Use of Risk Assessment

	Yes		No		Total	
Sentence	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Absolute Discharge			1	(4)	1	(4)
Conditional Discharge*	17	(28)	10	(38)	12	(66)
Conditional Sentence	11	(18)	8	(28)	9	(46)
Incarceration*	18	(30)	29	(103)	26	(133)
Intermittent Incarceration	2	(4)	3	(11)	3	(15)
Suspended Sentence	12	(20)	15	(54)	14	(74)
Supervised Probation*	57	(93)	47	(166)	50	(259)
Unsupervised Probation	1	(2)	3	(11)	3	(13)
Fine	10	(17)	12	(43)	12	(60)
Total		(163)		(353)		(516)

N=420, *p<.05

Note(s):
Percentages will not total 100% due to multiple sentences.

Risk assessment is a means of evaluating danger, and ultimately the most appropriate sentence, rehabilitation, and/or treatment for the accused. When police officers complete a B-SAFER, it may impact the justice system response. When such an assessment was completed, accused were less likely to receive a sentence of incarceration. This suggests that by completing the B-SAFER, police officers may ultimately save the justice system the cost of incarceration when the accused might not pose a sufficient risk to the victim to be incarcerated. The risk

[45] It is important to note that judges do not have access to completed B-SAFER forms. These forms are only used by police officers to assess the risk of violence. The forms are then copied and provided to the crown prosecutor, who have access to the information provided by the police officers.

assessment tool allowed the crown prosecutor to differentiate between an accused who was of high risk and an accused who was of low risk. While the B-SAFER is a tool used in domestic violence cases, police officers lay charges based on evidence.

Charges

The following section covers court processing time and a breakdown of sentences of each form of domestic violence related offence.

Court Processing Time

Table 37 provides a breakdown of mean time in court process (average time from first appearance to sentencing), by specific charges. Court processing time in the Moncton court was significantly shorter than court processing time in the Fredericton court (Table 20). Court processing time appears to have varied by type of charge. For instance, it took an average of 102 days to process a breach related charge, while it took an average of 236 days to process a sexual assault related charge.

Table 37: Charge by Mean Time in Court Process

	Moncton		Fredericton		Total	
Charge	**Mean**	**(n)**	**Mean**	**(n)**	**Mean**	**(n)**
Assault*	125 days	(196)	194 days	(41)	137 days	(237)
Threat	120 days	(162)	165 days	(19)	125 days	(180)
Breach	101 days	(139)	114 days	(11)	102 days	(150)
Harassment	138 days	(55)	136 days	(3)	138 days	(58)
Theft or break and enter	124 days	(20)			124 days	(20)
Assault with a weapon*	154 days	(18)	277 days	(3)	172 days	(21)
Sexual assault	264 days	(10)	93 days	(2)	236 days	(12)
Confinement	120 days	(12)			120 days	(12)
Other weapon charges	119 days	(6)			119 days	(6)
Murder or attempted murder	122 days	(1)			122 days	(1)
Other	114 days	(29)	121 days	(4)	115 days	(33)

N=516, *p<.05

Note(s):
Assault includes common assault; assault causing bodily harm; aggravated assault and choking; **threat** includes uttering threats; **breach** includes breach of probation, breach of a court order and breach of recognizance charges; **harassment** includes criminal harassment, harassing phone calls, causing a disturbance and mischief charges; **theft/break and enter** includes theft, break and enter, break and enter with intent, forcible entry and unlawfully in a dwelling charges; **sexual assault** includes sexual interference, incest, sexual assault causing bodily harm, and sexual assault charges; **confinement** includes forcible confinement charges; **other weapon charges** includes possession or a prohibited weapon and careless storage of a firearm charge; **murder/attempted murder** includes second degree murder and attempted murder charges; and **other** includes all charges not otherwise identified.

In addition to overall variations based on specific charges, there were differences in the court processing time in the Moncton court and the Fredericton court. With the exception of sexual assaults, the Moncton court consistently processed all forms of charges more quickly than did the Fredericton court. For example, breach related charges were processed by the Moncton court in an average of 101 days, compared with 114 days in the Fredericton court. The greatest variation was found on the processing time for assault related charges. In fact, there was a significant difference, taking 125 days in the Moncton court compared with 194 days in the Fredericton court.

Assault Related Charges

Table 38 provides a breakdown of the sentences for assault related charges. Overall, in the domestic violence cases under study for the Moncton and the Fredericton courts, the most common form of sentencing (60%) was supervised probation. This was followed by incarceration (19%) and conditional discharge and suspended sentence (both 18%). In smaller percentages of cases, accused received a fine (14%), conditional sentences (10%), unsupervised probation (7%), intermittent incarceration (3%), and absolute discharge (1%).

Table 38: Sentencing for Assault Related Charges

	Moncton		Fredericton		Total	
Sentence	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Absolute Discharge	1	(3)			1	(3)
Conditional Discharge*	21	(47)	8	(4)	18	(51)
Conditional Sentence	10	(23)	8	(4)	10	(27)
Incarceration	20	(45)	15	(8)	19	(53)
Intermittent Incarceration	2	(5)	6	(3)	3	(8)
Suspended Sentence	18	(40)	21	(11)	18	(51)
Supervised Probation	62	(140)	56	(29)	60	(169)
Unsupervised Probation	1	(4)	6	(3)	7	(3)
Fine*	13	(29)	23	(12)	14	(41)
Total		(227)		(52)		(279)

N=279, *p<.05

Note(s):
Assault includes common assault; assault causing bodily harm; aggravated assault and choking.
Percentages will not total 100% due to multiple sentences.

In addition to the overall breakdown of sentences resulting from assault related charges, Table 38 provides comparisons between the sentences in the Moncton and the Fredericton courts. While many of the sentences for assault related charges had small numbers, particularly in the Fredericton column, there were noteworthy differences. The Moncton court had a higher percentage of supervised probation (62% in Moncton, 56% in Fredericton) and incarceration (20% in Moncton, 15% in Fredericton) for assault related charges than did the Fredericton

court. There was a significant difference in the percentages of fines for assault related charges in the Moncton and the Fredericton courts. In the Moncton court, 13 percent of assault related sentences included a fine compared with 23 percent in the Fredericton court.

Threat Related Charges

Table 39 provides a breakdown of sentences for threat related charges. The most common form of sentence for a threat related charge was supervised probation (44%), similar to assault related charges. This was followed by suspended sentences (22%) and incarceration (19%). However, none of the cases with a sentence for a threat charge had an absolute discharge. Additionally, it was rare to see a threat charge result in intermittent incarceration (2%) or unsupervised probation (4%).

Table 39: Sentencing for Threat Charges

	Moncton		Fredericton		Total	
Sentence	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Absolute Discharge						
Conditional Discharge	10	(17)			8	(17)
Conditional Sentence	10	(19)	8	(2)	10	(21)
Incarceration*	22	(40)	4	(1)	19	(41)
Intermittent Incarceration	2	(4)	4	(1)	2	(5)
Suspended Sentence	10	(19)	12	(3)	22	(10)
Supervised Probation*	47	(86)	23	(6)	44	(92)
Unsupervised Probation	3	(5)	12	(3)	4	(8)
Fine*	7	(12)	23	(6)	9	(18)
Total		(185)		(26)		(211)

N=211, *p<.05

Note(s):
Threat includes uttering threats.
Percentages will not total 100% due to multiple sentences.

While there were overall differences in the sentences for threat related charges in the complete database of domestic violence cases, there were interesting differences in sentencing in the

Moncton court and the Fredericton court. For example, in the Moncton court, 10 percent of threat charges resulted in conditional discharges. This did not happen in the period under study in the domestic violence cases in the Fredericton court. Similarly, a slightly lower percentage of threat charges in the Moncton court resulted in a suspended sentence than in the Fredericton court (10% in Moncton, 12% in Fredericton). While the numbers are small for many of the sentences, again particularly given the size of the dataset from the Fredericton court, there were significant differences in the sentences when it comes to incarceration, supervised probation, and fines. In the Moncton court, 22 percent of the threat cases included a sentence of incarceration. This percentage was much smaller in the Fredericton court, at four percent. Similarly, 47 percent of the threat related charges had supervised probation in the Moncton court, compared with 23 percent in the Fredericton court. In Moncton, the court handed down a smaller percentage of fines for threat charges compared to the Fredericton court (7% in Moncton, 23% in Fredericton).

Breach Related Charges

Table 40 indicates that the most common sentences for breach related charges were supervised probation (53%) and incarceration (50%). While 14 percent of domestic violence cases included a suspended sentence, less than 10 percent of the breach related charges included other sentences.

Table 40: Sentencing for Breach Charges

	Moncton		Fredericton		Total	
Sentence	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Absolute Discharge	1	(2)			1	(2)
Conditional Discharge	5	(7)			4	(7)
Conditional Sentence	10	(15)			9	(15)
Incarceration	48	(75)	65	(11)	50	(86)
Intermittent Incarceration	4	(6)	14	(1)	4	(7)
Suspended Sentence	15	(23)	6	(1)	14	(24)
Supervised Probation	55	(86)	35	(6)	53	(92)
Unsupervised Probation	3	(5)			3	(5)
Fine	8	(12)	18	(3)	9	(15)
Total		(156)		(17)		(173)

N=173

Note(s):
Breach includes breach of probation, breach of a court order and breach of recognizance charges.
Percentages will not total 100% due to multiple sentences.

There were differences in sentencing for breaches between the Moncton court and the Fredericton court.[46] For example, none of the domestic violence cases in the Fredericton court with breach related charges ended with an absolute discharge, a conditional discharge, a conditional sentence, or an unsupervised probation. A lower percentage of breach charges ended with incarceration in the Moncton court than in the Fredericton court (48% in Moncton, 65% in Fredericton). And, like the tables detailing sentencing for previous charges, the Moncton court handed down a lower percentage of fines for breach related charges than did the Fredericton court (8% in Moncton, 18% in Fredericton).

Harassment Related Charges

A total of 72 cases, 69 in the Moncton court and three in the Fredericton court, included sentences for harassment charges. As is evident from the percentages provided in Table 41,

[46] Because there are so few cases, particularly in Fredericton (n=17), that have breach related charges, it is not possible to discuss significant differences between Moncton and Fredericton.

overall, it was most common, as with many other charges, that the courts imposed a sentence of supervised probation for a harassment related charge (56%) followed by incarceration (32%).

Table 41: Sentencing for Harassment Charges

	Moncton		Fredericton		Total	
Sentence	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Absolute Discharge						
Conditional Discharge	12	(8)			11	(8)
Conditional Sentence*	7	(5)	67	(2)	10	(7)
Incarceration	33	(23)			32	(23)
Intermittent Incarceration*			33	(1)	1	(1)
Suspended Sentence	13	(9)			13	(9)
Supervised Probation	54	(37)	100	(3)	56	(40)
Unsupervised Probation	3	(2)				
Fine	7	(5)	17	(1)	8	(6)
Total		(69)		(3)		(72)

N=72,* p<.05

Note(s):
Harassment includes criminal harassment, harassing phone calls, causing a disturbance and mischief charges.
Percentages will not total 100% due to multiple sentences.

Sentences resulting from harassment charges were of noteworthy difference in the Moncton and the Fredericton courts. While the numbers of cases in the Fredericton court with sentences for harassment charges were low, a much higher percentage of domestic violence cases in the Fredericton court included a conditional sentence (7 percent in Moncton, 67 percent in Fredericton), intermittent incarceration (none in Moncton, 33 percent in Fredericton), and supervised probation (54 percent in Moncton, 100 percent in Fredericton).

Theft or Break and Enter Related Charges

When exploring the sentences for theft or break and enter charges related to domestic violence, Table 42 demonstrates that the most common sentence was incarceration (46%) and supervised probation (42%). None of the cases with theft or break and enter charges included a sentence of

an absolute discharge, a conditional discharge, an intermittent incarceration, an unsupervised probation, or a fine.

Table 42: Sentencing for Theft or Break and Enter Related Charges

	Moncton		Fredericton		Total	
Sentence	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Absolute Discharge						
Conditional Discharge						
Conditional Sentence	23	(6)			23	(6)
Incarceration	46	(12)			46	(12)
Intermittent Incarceration						
Suspended Sentence	15	(4)			15	(4)
Supervised Probation	42	(11)			42	(11)
Unsupervised Probation						
Fine						
Total		(26)				(26)

N=26

Note(s):
Theft/break and enter includes theft, break and enter, break and enter with intent, forcible entry and being unlawfully in a dwelling charges.
Percentages will not add up to 100% due to multiple sentences.

Although it is quite possible that there were theft or break and enter charges related to domestic violence related offences in the greater Fredericton area, it has been impossible to retrieve domestic violence cases with these types of charges using JISNB. As such, it was not possible to compare sentences handed down for theft or break and enter. Having a domestic violence court enables the provincial government to track offences related to domestic violence. This was not always possible if such cases are processed within the regular court system.

Assault with a Weapon Related Charges

According to findings provided in Table 43, supervised probation (58%) was the most frequent sentence for an assault with a weapon charge. This was followed by incarceration (42%) and conditional sentencing (15%).

Table 43: Sentencing for Assault with a Weapon Charges

	Moncton		Fredericton		Total	
Sentence	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Absolute Discharge						
Conditional Discharge	19	(4)			15	(4)
Conditional Sentence	10	(2)			8	(2)
Incarceration	48	(10)	20	(1)	42	(11)
Intermittent Incarceration	5	(1)			4	(1)
Suspended Sentence	33	(1)	40	(2)	12	(3)
Supervised Probation	57	(12)	60	(3)	58	(15)
Unsupervised Probation					8	(2)
Fine	5	(1)	20	(1)		
Total		(21)		(5)		(26)

N=26

Note(s):
Percentages will not total 100% due to multiple sentences.

Table 43 contains all domestic violence cases with sentences for assault with a weapon charge in the Moncton and the Fredericton courts. The Moncton court domestic violence cases had a higher percentage of incarceration than did the Fredericton court domestic violence cases (48% in Moncton, 20% in Fredericton). Supervised probation occurred at similar percentages in the Moncton court and the Fredericton court (57% in Moncton, 60% in Fredericton). The Fredericton court had a higher percentage of cases that included a fine (5% in Moncton, 20% in Fredericton).

Sexual Assault Related Charges

Very few (n=15) domestic violence cases include sentencing for a sexual assault related charge. Table 44 shows that the most common form of sentencing was supervised probation (53%) and incarceration (27%). None of the sexual assault related domestic violence cases included absolute discharges, conditional discharges, intermittent incarceration, suspended sentences, or unsupervised probation in Moncton.

Table 44: Sentencing for Sexual Assault Related Charges

	Moncton		Fredericton		Total	
Sentence	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Absolute Discharge						
Conditional Discharge			50	(1)	7	(1)
Conditional Sentence	31	(4)			27	(4)
Incarceration	39	(5)	50	(1)	40	(6)
Intermittent Incarceration						
Suspended Sentence						
Supervised Probation	46	(6)	100	(2)	53	(8)
Unsupervised Probation						
Fine	15	(2)			13	(2)
Total		(13)		(2)		(15)

N=15

Note(s):
Sexual assault includes sexual interference, incest, sexual assault causing bodily harm, and sexual assault charges.
Percentages will not total 100% due to multiple sentences.

In the Moncton court, almost half (46%) included a supervised probation, with 39 percent including incarceration and 31 percent including a conditional sentence. The Moncton court has included fines in 15 percent of the cases, while the Fredericton court did not have any included. Each Fredericton court domestic violence case included supervised probation and either a conditional discharge or incarceration.

Confinement Charges

There was a wide range of sentences for accused guilty of a confinement charge. Table 45 indicates that 69 percent of charges for confinement included supervised probation, while 28 percent included incarceration, and 21 percent included a conditional discharge.

Table 45: Sentencing for Confinement Charges

	Moncton		Fredericton		Total	
Sentence	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Absolute Discharge						
Conditional Discharge	23	(3)			21	(3)
Conditional Sentence	15	(2)			14	(2)
Incarceration	31	(4)			28	(4)
Intermittent Incarceration						
Suspended Sentence	15	(2)			14	(2)
Supervised Probation	69	(9)			69	(9)
Unsupervised Probation						
Fine	8	(1)			7	(1)
Total		(13)				(14)

N=14

Note(s):
Confinement includes forcible confinement charges.
Percentages will not total 100% due to multiple sentences.

Similar to theft or break and enter charges, there were no confinement charges identified in the Fredericton court domestic violence cases. Like other charges found in the Moncton court, it is likely that there were more confinement offences being committed in the Fredericton court. However, as the domestic violence court in Moncton could track all charges related to domestic violence, it was much easier to track the frequency of the offence and the kind of sentences handed down by the courts.

Other Weapon Related Charges

As with many of the other charges, supervised probation was the most common sentence for accused guilty of weapons related offences (not included in an assault with a weapon charge). As is documented by Table 46, half received a conditional discharge, while 33 percent received sentences including incarceration. None of the other weapon related cases included an absolute discharge, intermittent incarceration, unsupervised probation, or a fine.

Table 46: Sentencing for Other Weapon Related Charges

	Moncton		Fredericton		Total	
Sentence	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Absolute Discharge						
Conditional Discharge	50	(3)			50	(3)
Conditional Sentence	17	(1)			17	(1)
Incarceration	33	(2)			33	(2)
Intermittent Incarceration						
Suspended Sentence	17	(1)			17	(1)
Supervised Probation	67	(4)			67	(4)
Unsupervised Probation						
Fine						
Total		(6)				(6)

N=6

Note(s):
Other weapon charges include possession of a prohibited weapon and careless storage of a firearm charge.
Percentages will not total 100% due to multiple sentences.

As with theft or break and enter related charges, and confinement charges, none of the Fredericton cases included sentences for other weapon related charges. Because of the small number found within domestic violence cases in the Moncton region, it is possible that few such offences were committed in the Fredericton region during the period under study.

Other Charges

As was mentioned earlier in this report, one final category is included to capture all other charges that were not included in the list charges. For example, an accused may have been charged with a motor vehicle infraction, or any other charge listed under the *Criminal Code of Canada*, as part of the domestic violence related offence. As is evident from Table 47, there were a total of 37 such cases. Unlike many of the other charges, where supervised probation was the most common sentence, this group of charges was most likely to result in a sentence of incarceration. While only one domestic violence case resulted in an absolute discharge, one resulted in a conditional discharge, and one resulted in unsupervised probation, few received a conditional sentence (5%) or intermittent incarceration (9%).

Table 47: Sentencing for Other Charges

	Moncton		Fredericton		Total	
Sentence	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Absolute Discharge	3	(1)			3	(1)
Conditional Discharge	3	(1)			3	(1)
Conditional Sentence	6	(2)			5	(2)
Incarceration	44	(14)	60	(3)	46	(17)
Intermittent Incarceration	9	(3)			8	(3)
Suspended Sentence	16	(5)	20	(1)	16	(6)
Supervised Probation	34	(11)	40	(2)	35	(13)
Unsupervised Probation	3	(1)			3	(1)
Fine*	19	(6)	60	(3)	24	(9)
Total		(32)		(5)		(37)

N=37, *p<.05

Note(s):
Other includes all charges not otherwise identified.
Percentages will not total 100% due to multiple sentences.

There were differences when comparing sentences for "other" charges in the Moncton and the Fredericton courts. In the Moncton court, 44 percent received incarceration as part of their sentence, compared with 60 percent in the Fredericton court. Similarly, 34 percent of Moncton court domestic violence cases resulted in supervised probation, compared with 40 percent of Fredericton court domestic violence cases. There was a significant difference in the percentage of domestic violence cases including a fine as part of the sentencing with 19 percent in the Moncton court, compared with 60 percent in the Fredericton court.

Sentences

While an understanding of the relationship between charges and sentencing provides insight into the outcomes of charges and comparisons between the Moncton and the Fredericton courts, it is also important to explore potential variations in the length of court processing time (average time from first appearance to sentencing) for various sentences. Table 48 provides a breakdown of the differences in mean court process time for each possible sentence outcome. On average, it took approximately 205 days for a sentence of intermittent incarceration to be reached, followed by 188 days for unsupervised probation. In the four cases where an absolute discharge was the sentencing outcome, it was reached in an average of 88 days.

Table 48: Sentence Outcome by Mean Time in Court Process

	Moncton		Fredericton		Total	
Sentence	**Mean**	**(n)**	**Mean**	**(n)**	**Mean**	**(n)**
Absolute Discharge	88 days	(4)			88 days	(4)
Conditional Discharge	105 days	(60)	133 days	(5)	107 days	(65)
Conditional Sentence	161 days	(42)	131 days	(4)	158 days	(46)
Incarceration	97 days	(114)	161 days	(15)	105 days	(129)
Intermittent Incarceration	198 days	(11)	223 days	(4)	205 days	(15)
Suspended Sentence*	121 days	(60)	165 days	(14)	130 days	(74)
Supervised Probation	117 days	(220)	180 days	(37)	126 days	(257)
Unsupervised Probation	176 days	(9)	215 days	(4)	188 days	(13)
Fine*	172 days	(42)	163 days	(17)	169 days	(59)
Total		(436)		(80)		(516)

N=516, *p<.05

Note(s):
Percentages will not total 100% due to multiple sentences.

There were distinct differences in the length of court processing time in the overall study, varying by sentencing outcome. There were differences in sentencing outcome court processing times in Moncton and in Fredericton. With the exception of the cases where conditional discharges and fines were reached, all forms of sentencing required a lengthier time in the court process in Fredericton. As many of the sentencing categories have small numbers, particularly in the Fredericton court, it was not always possible to discuss significant differences. However, suspended sentences took a significantly longer average time in the court process in the Fredericton court than in the Moncton court (121 days in Moncton, 165 days in Fredericton). Fines, on the other hand, were handed down in a shorter period of time in the Fredericton court (172 days in Moncton, 163 days in Fredericton).

Re-offences

To explore intervention that may ultimately eliminate future violence, many studies are now exploring re-offence (Kindness, et al., 2009). While the majority of this report highlights findings based on analysis of aggregated data (n=516), it is important to explore how often individuals accused re-offend. This section focuses on the accused and not the total aggregated domestic violence cases. As mentioned in the methodology section, re-offending refers to accused who have more than one domestic violence case; the accused re-offends and is charged with an additional domestic violence related offence at a later time. Documented on Table 49, of the 402 accused in the domestic violence cases, a total of 73 accused committed another offence. This represents a total of 18 percent of the repeat offenders who reappeared within the domestic violence cases under study within the 18-month period. Within the Moncton court, 20 percent re-offended, compared to 11 percent in the Fredericton court.

Table 49: Form of Re-offence

	Moncton		Fredericton		Total	
Charge	**%**	**(n)**	**%**	**(n)**	**%**	**(n)**
Assault charge	32	(21)	50	(4)	38	(25)
Non assault charge	58	(36)	50	(4)	55	(40)
Breach not involving victim	32	(21)	13	(1)	30	(22)
Total		65		8		73

N=73

Note(s):
Percentages will not total 100% due to multiple charges.

In the Moncton court, 32 percent of the domestic violence cases of the subsequent offence[47] involved an assault, but not necessarily on the first victim. It is important to recognize that an assault of a new partner does not mean that the accused has not re-offended – it means that he/she re-offended, involving another victim. Well over half, 58 percent of the accused who re-offended, committed a subsequent offence that was a non-assault, but involved the victim. Examples of such cases could include: harassing phone calls and breaches by showing up at the home of the victim. Additionally, 32 percent of the Moncton court re-offenders were charged with another offence, but the breach did not involve the victim. Examples of such cases included: breaching probation by being intoxicated in public and not appearing for a required treatment program.

While the Fredericton court results are also included in Table 48, it is important to note that tracking re-offences in a regular court is not as easy as in a domestic violence court. As the Moncton court was able to provide all cases that appeared during the period under study, it was simple to track re-offenders. In the Fredericton court, however, without the consistency of the domestic violence court, provincial government officials made efforts to provide us with a complete listing of domestic violence cases that involved domestic violence related offences. However, just as it was apparent that tracking charges such as theft or break and enter and

[47] In some cases, re-offenders were involved in more than one form of offence. For example, they may have re-assaulted the victim as well as been charged with harassment.

confinement related to domestic violence was impossible, identifying offenders who commit additional offences was equally challenging.

Conclusion and Suggestions

This section provides an analysis of the findings that emerged from a comparison of domestic violence cases in the Moncton and the Fredericton courts. Information was gathered to draw a broad understanding of domestic violence cases processed in the different court systems and to respond to questions posed at the beginning of this study.

Gathering Information on Accused

The first question pertains to gathering information on those accused of domestic violence related offences and how domestic violence cases are processed in a specialized model such as the Moncton court, compared to a more regular model such as the Fredericton court. In the Moncton court, the researchers were able to easily identify all domestic violence cases that came before the court for the period under study, because these cases were identified early in the court process, and a list of those accused was maintained by the court coordinator. It was more challenging to identify domestic violence related cases processed in the regular court of Fredericton because of the lack of sufficient identifier in cases related to domestic violence. Crown prosecutor and court files are incident-based and relate to offences under the *Criminal Code of Canada*. However, there is no specific domestic violence offence under the *Criminal Code of Canada* and as such it is difficult to identify which cases are related to domestic violence. Thus, cases were identified by requesting JISNB to highlight all those cases where a relationship existed between an accused and a victim and the offence was identified as offences against the person.

A second related issue pertains to identifying all domestic violence cases processed in the Fredericton court. Because domestic violence related offences are not identified early in the court process nor collected at a more central level, it was not possible to obtain the actual numbers of domestic violence related cases before the courts. This point was clarified during the early implementation stages of the Moncton court. In the first year, it was estimated that approximately 70 possible offenders per year would be processed in the specialized domestic violence court. This number was under estimated; 332 accused appeared in the Moncton court

over the 18-month period of this study. Capturing domestic violence cases in New Brunswick is problematic.

Moreover, the domestic violence cases processed in the Moncton court are all cases seen during the study. It is impossible to confirm the same for the Fredericton court. Therefore, it is fair to say that the Moncton court is the only court in New Brunswick that provides an understanding of the extent of domestic violence related offences, as well as the diversity of offences that pertain to domestic violence crimes.

In order to obtain a broad understanding of overall domestic violence in New Brunswick:

1. It is suggested that the Province of New Brunswick develop an effective clear identifier for domestic violence related offences brought before the court system.

Gathering Information on Victims

Similar difficulties arose in regards to gathering information on victims. Over the course of this 18-month study, 332 accused were processed through the Moncton court and 141 victims received services from *Victim Services*. In comparison, 70 accused were processed through the Fredericton court and 128 victims received services from *Victim Services*. The figures are problematic for two reasons. First, the number of accused and the number of victims in the Fredericton court appear disconnected, illustrating the difficulty of identifying domestic violence cases; in other words, it was not possible to confirm that all *Victim Services* clients were connected to domestic violence cases being processed in either the Moncton (90 victims) or the Fredericton (13 victims) courts. The second problem is the inability to pair many victims with accused in order to examine what kinds of supports were provided to victims while accused were in the court system.

Nonetheless domestic violence cases and *Victim Services* client information are generating valuable findings to comment on specialization. An objective of the Moncton court is to support victims of domestic violence through "immediate referral of the victim (with victim consent) by police services to the *Department of Public Safety Victim Services* for access to an array of support services." The immediate referral of the victim before the accused is processed into court may explain the impossibility to pair victims with accused who may not have been

charged and brought before the court. For all domestic violence cases under study, in the Moncton and the Fredericton courts, it was possible to track approximately 20 percent of victims receiving assistance from *Victim Services*. As *Victim Services* plays a key role in supporting victims throughout the judicial system, a better way to identify victims receiving assistance while accused are dealing with the court system is suggested.

In order to support victims and thoroughly understand *Victim Services* impact on victim safety:

2. It is suggested that *Victim Services* and *JISNB* adequately identify victims receiving assistance while accused are dealing with the court system.

Charging

With a court dedicated to domestic violence cases it is possible to obtain an exhaustive list of charges related to domestic violence situations. Table 15, under the *Charges* section of this report, is an indicator of the many possible charges identified by the researchers that relate to domestic violence cases. It also illustrates the complexity of the issue. For example, when comparing cases across the courts, some charges identified in the Moncton court were not found in the Fredericton court cases (e.g. criminal harassment, harassing phone calls, break and enter, forcible entry, aggravated assault, etc.).

The temptation to conclude that there is more domestic violence in the Moncton region and harsher sentencing in the Moncton court can easily be made when examining the tables in this report. However, such conclusion would misrepresent what the reality is or what is happening in the Moncton court. The lack of reliable indicators to identify domestic violence cases from JISNB blurs the reality.

The Moncton court is the only court in New Brunswick that systematically captures domestic violence related offences in a way that allows tracking such cases. It is also the only region in New Brunswick where the government has a more systematic view of domestic violence related offenses because all cases are directed to the Moncton Court. Before moving forward in the development of other specialized courts dedicated to domestic violence cases, it would be beneficial, from a government perspective, to implement a high-quality means of tracking all

domestic violence cases processed through courts across the province of New Brunswick. Such an initiative would certainly provide a better picture of how the justice system responds to domestic violence cases.

3. As per suggestion 1, it is fundamental to develop a system which will permit the flagging of domestic violence cases in the court system prior to establishing other domestic violence specialized courts in New Brunswick.

Court Processing Time

Another objective of the Moncton court was to ensure a timely response in domestic violence cases. From police intervention to sentencing by the court, responding in an appropriate timeframe can make a difference for those who are impacted by domestic violence. Regular courts have been criticized for not protecting victims and for not emphasizing offenders' accountability for their actions. Despite the high number of cases processed in the Moncton court, from the incident, to first appearance in court, to sentencing, the accused received a quick response from the court system. A median of nine days, from the incident to the first appearance in court, demonstrates an immediate response by the court. Domestic violence is a complex issue, resulting in crisis situations between intimate partners that often evolve rapidly. Therefore, a timely response from judiciary and a quick resolution can facilitate adequate intervention (e.g., treatment programs, monitoring). From first appearance to sentencing, the Moncton court processes domestic violence cases in a short time period (77 days median). This means that the outcome for domestic violence related offences is made quickly. As illustrated under the *Court processing* section in this report, the Moncton court clearly processed the accused in a timely fashion in order to address the situation. Moreover, victims are at risk of re-victimization when they leave an abusive partner which may also coincide with the time the accused is in the court process. Thus it is imperative that intervention occurs quickly.

4. It is suggested that the Moncton court maintain the frequency of court sessions in order to facilitate a timely response to domestic violence cases.

Monitoring

The court process may not be over for some offenders, particularly those who are monitored over time by the court. Other than the Domestic Violence Treatment Option (DVTO) court in

Whitehorse, the Moncton court is the only court in Canada that introduced monitoring sessions after sentencing. The DVTO has a monitoring process prior to sentencing. Another objective of the Moncton court was to emphasize offender's accountability by the establishment of court monitoring process. Monitoring sessions are imposed by the judge. Although monitoring sessions occur generally after sentencing, there were high risk cases, in the period under study, where monitoring sessions have started before sentencing.

Judicial monitoring is viewed as a best practice[48] in the field of domestic violence intervention. Rempel, Labiola and Davis conducted the most recent study (2008) on judicial monitoring in the USA and have shown "[…] that simple judicial surveillance is ineffective" (205) "[…] unless it involves clear and repeated communications concerning acceptable and unacceptable behavior […]" (p. 205). Monitoring observation in the Moncton court revealed that professionals involved in the process were reemphasizing appropriate behavior to the offender. During the course of monitoring sessions, probation officers played a key role in reporting on offender behaviors. From what has been observed, the judge has a crucial role in monitoring sessions by repeating and stating what constitutes acceptable and unacceptable behavior, to ensure that the offender understands expectations and to verify that probation conditions are still in effect. Following Rempel et al., we would recommend a longitudinal study on court monitoring to fully measure its impact on offenders over the long term, and to compare this group with offenders who are or are not monitored over a longer period after sentencing. Examining offenders over a longer period of time would allow the province to measure re-offence. To fully understand the impact of monitoring on offenders and the potential for re-offence:

5. It is suggested that the Province of New Brunswick track both monitored and non-monitored offenders over an extended period of time in order to gain better appreciation of the difference that monitoring can make.

Risk Assessment

To reduce the risk of further domestic violence incidents, another objective of the Moncton court is to prevent the possible risk an offender may constitute in the future. Prior to the

[48] Judicial review is considered a best practice to monitor offenders at high risk of reoffending and to ensure that offenders are accountable for their actions.

inception of the Moncton court, police officers across the province of New Brunswick were trained to use the risk assessment tool B-SAFER. Once completed, these assessments are forwarded to the crown prosecutor. In this study, risk assessments were found in domestic violence cases in the greater Moncton area. Domestic violence cases in Fredericton did not include risk assessments. Moreover, B-SAFER assessments were found in only 37% of all domestic violence cases under study in Moncton and some incomplete assessments were provided to crown prosecutors for their files.

B-SAFER is the risk assessment tool used by the Province of New Brunswick. Therefore, it was expected to be found in crown prosecutor files. Unfortunately there is a lack of consistency in the usage of the instrument in the course of the 18-month period under study. Nonetheless, it is clear from information compiled under the section *Assessing risk, charging, and outcomes* findings in this report that relationships between offenders and victims existed when completed risk assessment were available. From domestic violence cases studied in this report, it is possible to measure the difference between high risk on the prioritization or life-threatening scales versus low scale and release on own recognizance. The higher the risk of danger an accused may present, the less likely police officers were of releasing the person. Moreover, when police officers completed a risk assessment, they were more likely to press assault, threat or breach charges. A risk assessment provides a context where police officers can better understand the violence that has occurred and the risks the accused may present. Police officers identify varying levels of concern about the priority that should be placed on a case: the threat to the victim, and the likelihood of imminent violence. From information collected for this report, a completed risk assessment makes a difference in the treatment of domestic violence cases. The risk assessment B-SAFER was not systematically used in the course of the 18-month period of this study, even though police officers were trained to use it in Moncton. When B-SAFER is completed it makes a difference in charges laid by police officers. Therefore,

6. It is suggested that the Province of New Brunswick reinforce the necessity for police officers to complete the risk assessment (B-SAFER) and to ensure that it is forwarded to crown prosecutors for their files.

Sentencing

We now know there is a relationship between police officers' assessment of risk and danger and charges. Is there a similar relationship between charges and sentences and is there a difference if sentencing is pronounced under specialized or regular courts? As discussed earlier, there are differences in charges processed in the two courts. One reason for this is the difficulty in identifying domestic violence cases in the Fredericton court. There is also a difference in court processing time in Moncton and in Fredericton. However, there are few differences between sentences across the two courts. For instance, in both courts, the most common sentence was supervised probation for assault related charges, followed by incarceration, and conditional discharge and suspended sentence. Regardless of the court, findings demonstrate that judicial sentencing is impartial. The findings in this report, in terms of charges and sentences, emphasize this conclusion: sentencing under specialization is similar to sentencing in a regular court. However, specialization does differ from a regular court process when it involves monitoring for offenders and when it engages professionals in a coordinated approach to domestic violence cases.

7. It is suggested that the Province of New Brunswick provide better explanation of the role of a domestic violence specialized court to professionals working in the justice system and to the general population to discourage assumptions that sentencing might be different under specialization.

Courtroom Observation

Courtroom observation of domestic violence cases at the Moncton and the Fredericton court sites was conducted near the end of the study. The purpose of this component was to supplement the analysis and to orient the researchers in the realities of the court processing of domestic violence cases. Observing first appearances, bail hearings, sentencing, monitoring, etc. clarified the differences in court processes in the Moncton court in comparison to the Fredericton court.

The first difference relates to the scheduling of cases. In the Moncton court, cases are grouped together, facilitating the hearing of a number of similar cases when possible. Grouping monitoring cases is very effective in the sense that those professionals who are involved in the particular case are made aware and ready to attend sessions. For instance, probation officers

play a key role in monitoring, presenting the case and any progress made by the offender. As mentioned earlier, monitoring sessions are an excellent means of assessing an offender's progress and compliance with probation conditions, to re-emphasize acceptable behavior, and to ensure victim safety is addressed. *Victim Services* coordinators also play an important role in monitoring sessions, especially with offenders who were previously assessed to be of high risk of re-offending. Hearing probation officers report on an offender's progress, the judge is able to enquire about the provision of support to a victim by the victim services coordinator. Thus monitoring illustrates how specialization works as a coordinated approach among professionals.

The second major difference pertains to the cases themselves. In the Moncton court all cases heard in the court were domestic violence related; while in the Fredericton court there was a diversity of cases heard in the same court and during the same session. From an observer's perspective, the Moncton court has established an effective process of continuity in the type of cases heard. The establishment of continuity is key for a number of reasons, chiefly among them being the focused attention given to domestic violence cases. Focused attention on domestic violence cases enables the court to gain a better understanding of the dynamics of domestic violence, the complexity of needs of victims and offenders, and the critical components of an effective court process. One critical component worth pointing out is the role of the vast array of professionals designated to the specialized court process. In the Moncton court professionals who were involved in the court process have an in-depth understanding of domestic violence cases and are well-prepared to reiterate the facts of the case, provide statements made by victims, support victims, assess the risk an accused may present in the future, and respond to requests of the judge. This work is crucial to the success of specialized court responses to domestic violence cases.

Finally the court coordinator plays an essential role in ensuring that all professionals involved in the Moncton court are working in the same direction. The coordinator's role is critical in ensuring that efforts are made to respond to clients' needs (victim/offender) and that interventions are not in contradiction with one another. Overall, the court coordinator ensures the maintenance of a high level of collaboration among professionals.

8. It is suggested to maintain the court coordinator position a permanent position under the Moncton court.

* * *

Overall, this comparative study highlights two different court system processes in dealing with domestic violence cases. The comparison provides an informed snapshot of the differences and similarities of diverse aspects of court systems such as charges, court processing, outcomes, risk assessments, re-offence and victim and accused information.

In the opinion of researchers, the Province of New Brunswick should maintain the operation of the *Moncton Provincial Court-Domestic Violence Pilot Project* beyond the pilot project period. This report illustrates that the Province takes seriously the need of the justice system to effectively address domestic violence cases through the implementation of a specialized response. What was unexpected is the extent to which the court system is dealing with domestic violence cases. The pilot project set up in Moncton has shed light on an issue that is simply under-estimated in our society. Domestic violence is a major criminal justice issue that the Province of New Brunswick is attempting to address. This is a commendable endeavor for which the province's efforts deserve recognition.

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Appendix 1

NB Domestic Violence Court Pilot Project: Evaluation Framework (Phase I)

Submitted to the
Steering Committee for the domestic violence specialized court pilot project

From the

Muriel McQueen Ferguson Centre
for Family Violence Research

Submitted to WIB: May 10, 2006
Revised February 5, 2007
Revised April5, 2007

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Appendix A: Timetable Evaluation Framework

Introduction

In January 2006 the Muriel McQueen Fergusson Centre for Family Violence Research joined the government Steering Committee on the development of the New Brunswick Specialized Court on Domestic Violence. The Muriel McQueen Fergusson Centre is proposing an evaluation framework design for the implementation of this pilot project.

The purpose of the evaluation will be to describe how the specialized court is implemented, to provide an understanding of strengths and weaknesses as well as intended and unintended effects of specialization, and to assess the functions and processes of the specialized court. It will also evaluate the specialized court in comparison to cases processed under a non-specialized court model. The evaluation will pay particular attention to the establishment of an integrative approach for family violence experts and professionals who work in the specialized court, and to the development of ways to support court-ordered remedies that support victims and help perpetrators to deal with their violence, as proposed in the provincial action plan to alleviate violence against women (*A Better World for Women: Moving Forward 2005-2010*). This evaluation framework will respond to the main evaluation goal suggested in the action plan 2005-2010, which is to: "assess [the] effectiveness of the specialized court model and look for opportunities to refine or strengthen the court model prior to further implementation" (p.11).

The evaluation will answer three questions about the process of the implementation, and one regarding preliminary outcomes of the Domestic Violence Court pilot project:

1) Has the Domestic Violence Court pilot project been implemented as planned?

2) Who is entering into the Domestic Violence Court system, and how are cases being processed differently under specialization?

3) How do the Domestic Violence Court functions and processes differ from non-specialized court, in terms of support to the victims, sensitivity to the unique nature of the crime, and the challenges to professionals involved in the justice system process?

4) What are the preliminary outcomes of the Domestic Violence Court?

This evaluation framework design is proposed as a three-year evaluation plan. Therefore, evaluation priorities have been structured according to a three year time frame. However, the framework is suggesting a two-phase evaluation[49] (a five to six year evaluation period in total).

It is anticipated that the final report of phase one (at the end of year three) will explain how

the specialized court model has been implemented and how it has operated since its inception

[49] The present evaluation framework design in this document details the first phase; however, it also briefly explains the second phase that will necessitate its own evaluation plan and supplementary funding at the end of the first phase.

in 2006. This final report will be the first attempt at describing the impact of the specialized court model, as compared to the regular court. It is understood that the final report will respond to each evaluation question proposed. It is suggested that an interim report will be submitted (during year two) to the working team regarding the implementation process. Court observations and individual interviews with key stakeholders will be used to provide input in this regard. The interim report will provide an opportunity for the team to make adjustments to the court model if necessary before the end of the three-year period.

It is important to keep in mind that this evaluation is not intended to be a fully outcome-based evaluation, since, in order to measure the entire scope of impacts, a longer period of data collection would be required. This evaluation is an initial attempt to identify some early impacts of the newly established model. It does not entail an analysis of the cost-effectiveness of the specialized court model. This evaluation will be formative in the sense that it will highlight the strengths and weaknesses in the early operation of the Domestic Violence Court, identify potential gaps in the court model, and provide an understanding of some of the intended effects and potential unintended effects of specialization. In so doing, the proposed assessment of the specialized court implementation will identify areas that may benefit from change, and provide recommendations in this regard.

1. Domestic Violence Court Pilot Project: Background

The Domestic Violence Court pilot project is a provincial initiative involving the Departments of Justice, Public Safety, Executive Council Branch, Education, Health and Wellness, Training Employment and Development, Family and Community Services, as well as the Coalition of Transition Houses and the Muriel McQueen Fergusson Centre for Family Violence Research. The Domestic Violence Court pilot project is a recommendation that was put forward in May 2005 by the government of New Brunswick in the Action Plan 2005-2010. To date, there is no such court in the province and consequently, the model is in its developmental stage. The pilot project, to be implemented in one location[50] in New Brunswick in 2006, is pursuing a general objective in enhancing women's access to justice services (p. 10).

[50] At the time of the presentation of the evaluation framework, the location had yet to be determined by the government.

The logic of specialization

It is understood that an efficient response from a specialized court would take into consideration women's safety as a top priority in the justice system. As demonstrated in the literature on domestic violence[51], it is based on the logic that violence occurring in a familial setting differs in many significant ways from violent incidents where the perpetrators are strangers or extra-familial parties. As such, the task of fully prosecuting domestic violence cases and adequately ensuring the safety of victims poses unique challenges at many levels of the judicial process. The challenges are experienced by the police officers, victim services personnel, prosecutors, judges, probation officers, and treatment providers.

Some of the challenges include:

- The need to provide increased protection *and* counselling for victims and witnesses before, during and after sentencing.
- The frequent occurrence of victim statement recants and victims declining to testify.
- The need to gather adequate information at the investigation stage in order to proceed with charges in the absence of witness testimony.
- The need to provide sentencing (and sentencing recommendations) that reflect and address the unique nature, and relationship dynamics, of domestic violence cases.

Specialized domestic violence court systems are designed to provide solutions to some of these challenges by streaming all domestic violence cases through a system where the professionals involved are trained and sensitive to domestic violence crime and its dynamics, and are working in a coordinated fashion to provide an appropriate approach to prosecution, victim accommodation, sentencing recommendation, and treatment. Some of the demonstrated benefits of this approach are highlighted below.

The demonstrated effects of specialization

Specialization is seen as a potential method for ensuring more appropriate sentencing for domestic violence crime, and has been demonstrated as effective in many cases. For example, specialization has been shown to increase court mandated specialized treatment for first time offenders, and resulted in higher incarceration rates for recurrent offenders[52]. Recidivism has also been shown to decrease under specialized court systems[53].

By providing a coordinated response and a prosecutions team that is attentive to the unique realities of the crime, some specialized court systems have in effect re-defined the measures of success in family violence justice, and been more successful that the conventional system

[51] See for example: Tutty, L., and Goard, C. 2002. "Woman Abuse in Canada: An Overview" in *Reclaiming Self: Issues and Resources for Women Abused by Intimate Partners*. Tutty and Goard, eds. Fernwood Publishing, Halifax & RESOLVE, Manitoba. See also: Weber, Julia. 2000. Domestic Violence Courts: Components and Considerations. *Journal of the Center for Families, Children and the Courts.* Volume 2.

[52] See: Moyer et al. 2000. "The Evaluation of the Domestic Violence Courts: Their Functioning and Effects in the First Eighteen Months of Operations, 1998 to 1999" A report to the Ministry of the Attorney General of Ontario by Moyer and Associates, Toronto.

[53] See: Hoffart, I. and Clarke, M. 2004, HomeFront Evaluation: Final Report. Written for: HomeFront Evaluation Committee. Synergy Research Group. Calgary, Alberta.

in meeting the diverse needs of victims[54]. Specialization has also been shown to contribute to a more expedient court process in domestic violence cases in both Winnipeg and Ontario. A timely and appropriate court process is seen to increase the safety of the victim, and decrease the likelihood of victim statement recants.

2. Program Evaluation Methodology

The proposed evaluation will employ a mixed-method design using a variety of data sources and methods. It combines qualitative and quantitative methodologies and different data collection approaches. This mixed-method design will allow for the evaluation of the implementation process of the specialized court, and provide preliminary findings on domestic violence cases processed through the justice system. The following work plan outlines the major data collection methods:

a) Courtroom observation of domestic violence cases processed at the specialized court site and at a non-specialized court site;

b) Individual interviews with key informants involved in the specialized court;

c) Tracking of all domestic violence cases heard in the specialized court (Moncton), as well as domestic violence cases heard in a non-specialized provincial court (Fredericton) over a period of 18 months.

a. Courtroom Observation: specialized and non-specialized court sites

Courtroom observation of the specialized court will take place starting six months after the implementation of the model. The project coordinator will sporadically observe courtroom proceedings to understand what the parties involved are doing and how they interact in the process (including, for example: victims, abusers and witnesses). It is anticipated that, through this observation, we will have an understanding of the work accomplished in the specialized court, and an in-depth description of the dynamics in the courtroom. Using an observation grid, the project coordinator will note what is happening in the courtroom. Similar courtroom observation of domestic violence case proceedings will also take place at a non-specialized court site (Fredericton). This dual observation approach will allow the observation of differences in process, and the explanation of these differences in context. The observation will serve three purposes: a) it will help to identify gaps, strengths and

[54] Ursel, Jane. 2002 "His Sentence is My Freedom: Processing Domestic Violence Cases in the Criminal Justice Processing of Domestic Violence Cases in The Winnipeg Family Violence Court " in *Reclaiming Self: Issues and Resources for Women Abused by Intimate Partners*, Leslie Tutty and Carolyn Goard (eds). Fernwood Publishing.

weaknesses during the implementation phase of the specialized court; b) it will help to understand and highlight the differences between two different courtroom proceedings and; c) it will help to prepare for individual interviews with key informants.

b. Individual interviews

Individual interviews will be conducted with 12 to 15 individuals who are directly involved in the specialized court. For instance, individual interviews will be done with police officers, crown prosecutors, defence attorneys, judges, victim services case workers, probation officers, and any other professionals who play a role in the specialized court. All professionals involved in the specialized court will gain knowledge about the work accomplished in a specialized court, about the difficulties, and positive aspects of teamwork; these professionals will also have an understanding of the specialized court from the inside and the process from a day-to-day perspective. Therefore, the information derived from their perceptions on the specialized court during the course of its implementation will contribute to the process evaluation. The goal of the individual interview component of the evaluation is to gather information that will help in:

- understanding the dynamics at play in the specialized court (teamwork, courtroom dynamics, support to victims and witnesses, treatment of abusers);
- identifying changes in comparison with their work in the regular court;
- identifying the strengths and weaknesses of the specialized court.

Open-ended semi-structured questions will be used to conduct the interviews, allowing the interviewer to gain in-depth information from these stakeholders.

A list of all individuals involved in the specialized court will be provided to the project coordinator by the Steering Committee. The procedure will then address a personalized letter to inform them about the evaluation process and the purpose for individual interviews. After this first contact, the project coordinator will contact each of them by telephone to schedule individual interviews. When the potential interviewees are contacted they will be given a summary of the evaluation process and their expected involvement. They will then be asked to confirm their interest. The project coordinator will schedule interviews during the last quarter of year one and first quarter of year two.

Finally, an additional set of individual interviews (8-10) will be set-up with the Specialized Court Steering Committee members to gather their perceptions in regards to the actual implementation of the Specialized Court, and the desired outcomes they are envisioning. These individual interviews will help point out the perceptions of those involved at the conceptual level of the Specialized Court. It is important to seek their input in order to determine whether these key stakeholders see the process unfolding as they believe it should, and if not, why.

c. Court tracking: specialized and non-specialized court sites

Court tracking will allow us to quantitatively follow all domestic violence cases through the specialized court (Moncton) over a period of eighteen (18) months. Court tracking of domestic violence cases through the regular (non-specialized) court (Fredericton) will also be performed over a period of eighteen (18) months. One important purpose of tracking

domestic violence cases through both specialized and non-specialized courts is to understand case processes in regards to timeliness of court proceedings. Because we are talking about women's safety and adequate intervention with abusers, it is important to have a sense of court processes and outcomes (including pleas, sentencing patterns, as well as treatment impositions and breaches) [55]. With data from both courts, it will be possible to assess what influence specialization has on the processing of domestic violence cases, and to document the changes that occur as a result of specialization, and make comparisons to the regular court process.

3. Data collection from existing data sources

Existing data sources

The evaluation database (data management system) will be created by drawing on existing data sources within the New Brunswick justice system. Access to the existing databases and hard copy files in the justice system (both Public Prosecution files and Court files) will be required, and these will be drawn from for evaluation purposes. For the most efficient data gathering process, a central access point for all data will be required to be accessible by evaluators in Fredericton and at the pilot site (Moncton). In addition to the hard copy file, data verification may be required for some cases, which will be accessed through a designated contact within the Department of Justice. Possible databases for data verification include:

1. New Brunswick Department of Justice Information System (JISNB)
2. Public Prosecutions File Management System
3. Prosecution files (hard copy files)
4. NB Public Safety Information System (Victim Services, Probation, Corrections)

Data flow (tentative and contingent on data access)

An evaluation data management system will be created by the evaluators for the purposes of the specialized court evaluation. This data management system will become the data entry point for all quantitative case information being monitored, and it will become the source for final data analysis. As mentioned above, information for this database will be drawn primarily from Court and Crown Prosecutor files (hard copy).

Court Files: The court docket information posted daily will provide evaluators with the information on who is appearing in the specialized court that day, and on what charges (including both new charges and breaches)[56]. At this point the accused will be assigned a record in the evaluation data management system. After the first appearance, subsequent case

[55] Given the time required for cases to move through the justice system, an evaluation of recidivism requires a minimum 4 years of evaluation data gathering. If the evaluation of the New Brunswick specialized court proceeds into phase two, recidivism rates will become a key evaluation component, providing a more long term measure of court success.

[56] Once the pilot project is underway, court dockets will need to, in some way, identify which cases are being heard under the specialized system; and it will be imperative that the evaluation researchers have access to this information early in the process.

information for the accused will be pulled from the court file (including: pleas, court orders, and sentencing information) and incorporated into the evaluation data management system.

Public Prosecution Files: Public prosecution files will be accessed will be reviewed at the end of the case. This file will become the primary data source for case characteristic information, and any police-generated case information, as well as for examining pre-sentence reports, and victim impact statements. The hard copy prosecution files will also be required for gathering data at the non-specialized court site (Fredericton).

Public Safety Information System: Depending upon whether the court model incorporates court review into its design, the department of Public Safety Database may also need to be accessed in this first phase of the research. This Public Safety database will also provide the information required for subsequent phases of the evaluation, which will incorporate victim perspectives and treatment completion.

4. Analysis

The analysis of the information collected by the courtroom observation, individual interviews and court tracking will be of a qualitative and quantitative nature. A qualitative analysis of the courtroom observation and the individual interviews will be performed using content analysis, in which specific themes that are emerging from interviews are examined. This qualitative component of the evaluation will focus on some key indicators such as the availability and usefulness of existing services, the knowledge of services/resources, and the level of comfort with the required team work.

The quantitative analysis will be performed with a database developed in Microsoft Access, and analysed using SPSS (a statistical analysis program). This data analysis will allow a description of processes and case outcomes in the specialized court, an understanding of who is entering in the system (case demographics), and a comparison with pre-specialization.

Suggested key indicator areas to be tracked are: prosecution, sentencing, court processes, case characteristics, victim support and cooperation. Research has indicated that the very fact that a specialized court is being implemented has an impact in the public and can lead to a sudden but short-lived peak of interest (a passing fancy) for the administration of justice in cases of domestic violence. This peak can have misleading consequences on the research design as more people may report abuse or access the system. Therefore, measures of success for a specialized court must be multidimensional in order to capture the entire process[57]. In this evaluation framework we will keep in mind that success can be defined in different ways, understanding that key indicators are to be looked at in a broader perspective.

[57] Ursel has shown that "Historically, measures of success within the CJS (Criminal Justice System) have been one-dimensional, focusing on outcome rather than process […]". Ursel, Jane. 2002 "His Sentence is My Freedom: Processing Domestic Violence Cases in the Criminal Justice Processing of Domestic Violence Cases in The Winnipeg Family Violence Court " in *Reclaiming Self: Issues and Resources for Women Abused by Intimate Partners*, Leslie Tutty and Carolyn Goard (eds). Fernwood Publishing, p. 46.

5. Ethical Considerations, Confidentiality, and Data Sharing

It is understood that the evaluation plan will be implemented only after approval has been received from the Research Ethics Board (REB) at the University of New Brunswick. All research projects taking place through, or affiliated with, UNB are required to submit applications to the REB to ensure that research components are in compliance with university research conduct policy and with Canada's Tri-Council policy on Ethical Conduct for Research Involving Humans. Therefore, all research activities proposed herein will require that our written application be approved by UNB.

Because of the confidential and sensitive nature of the data and files in this evaluation, evaluators will be required to exercise extreme care in protecting data; and of course, information access will be subject to Canada's two federal privacy laws. It should also be noted that, in order to fully evaluate the pilot project and analyse the data discussed above, evaluators will require unobstructed access to justice system and public safety records and information, and that none of the evaluation research proposed herein will be possible unless this is granted. Though more than one electronic records system may need to be used, ideally, this information should be gathered from two central access points (one in Fredericton and one in Moncton).

6. Schedule and Staff

Timetable

A three year timetable is provided in Appendix A. All major tasks are enumerated and compiled quarterly and yearly. The timetable aids in the visualisation of the tasks to be performed during the three year period. Note that the ethics application will be prepared before the beginning of the first year and that it is also expected that an agreement regarding access to existing data sources from provincial departments will be obtained before the project starts. Hence, these tasks are not included in our timetable.

Members of the Steering Committee and stakeholders from the provincial consultation held in March 2006 were concerned about taking into account victims' and abusers' perceptions of their experience within the specialized court. As it is difficult to gather information on people's experiences when they are still in the middle of the process and/or just walking out of a process, it is understood that this should be looked at in a second evaluation phase. It is important to mention that time will be allocated during the third year of the evaluation process to work on new funding applications for phase II in order to gather information directly from victims and abusers.

Designated Responsibilities

The grid below outlines the roles of each group and individual involved in the evaluation research.

Activity	Principal Investigator	Consultants & Advisory Committee	Project Coordinator	Research Assistant
Designing observation grid	X	X	X	
Observation in Court			X	
Designing individual interview questionnaire	X	X	X	
Designing, formatting data base, case tracking	X	X	X	
Data entry and cleaning			X	X
Interviews transcription				X
Analysis of observations and interviews	X	X	X	
Interim Report	X		X	
Data analysis	X	X	X	
Final Report	X		X	
Presentations of Report	X		X	
Preparing new funding application for phase II	X	X		

7. Demonstrated Capacity to Complete the Project

Carmen Gill, Ph.D., will be the Principal Investigator responsible for overseeing the evaluation project. Dr. Carmen Gill is Assistant Professor in the Department of Sociology and Director of the Muriel McQueen Fergusson Centre for Family Violence Research. She has expertise in family violence research. She is familiar with researching the justice system response to intimate partner violence and has been involved in evaluation research.

Heather McTiernan will be the project coordinator. Ms. McTiernan has a master's degree in policy studies from UNB. Prior to joining MMFC, she conducted program evaluations for the non-profit sector (environmental organizations) as a consultant, and has research experience in both qualitative and quantitative methods. Dr. Gill and Ms. McTiernan will conduct the three-year evaluation project.

A graduate student with background experience in data entry will be hired as a research assistant to complete the evaluation team. Dr. Jane Ursel will be asked to provide input as a consultant at two points in time during the evaluation process: first in regards to the design of instruments and, second, in the course of the analysis of court tracking. Dr. Jane Ursel is the director of RESOLVE (Research and education for solutions to violence and abuse) at the University of Manitoba. She is the foremost expert in Canada on the evaluation of specialized court processes. She is the director of a longitudinal study of the Winnipeg Family Violence Court, having collected sixteen years of data from that Court. She is also involved in social policy analysis and development.

The principal investigator will sporadically seek informal advice from other colleagues at the Centre and at UNB, such as Dr. Linda Neilson and Dr. Luc Thériault, both from the Department of Sociology.

8. Strategy for the Dissemination of Results

There are two different points for disseminating results from this evaluation. First, an interim report will be submitted to the steering committee. The interim report will be presented and discussed at the steering committee at the end of the second year of the evaluation. This report will provide the committee with a qualitative evaluation of the implementation process of the specialized court. Second, the final report will be presented and discussed at the steering committee at the end of year three. A summary of the report will also be available upon request to other individuals involved in this evaluation. Once the evaluation team receives approval to publicly release the report, it will be posted on the Muriel McQueen Fergusson Centre webpage and Dr. Gill will be at liberty to make academic presentations about the research. We would expect to make the report electronically available about 6 to 8 months after the evaluation findings are presented to the steering committee.

BUDGET ($147,440 over 3 years)

	Year 1	Year 2	Year 3
EQUIPMENT			
Laptop Computer & Printer for Project	$2,500	--------	--------
SALARY (including benefits)			
• Research Coordinator ($25/h x 20h/w x 52 weeks)	$26,000	$26,000	$26,000
• Summer Research Assistant ($17/h x 40h/w x 18 weeks)	$12,240	$12,240	$12,240
TRAVEL & ACCOMODATION	$4,500	$4,500	$4,500
OFFICE SUPPLY & COMMUNICATION (Paper, photocopy, ink & phone at $120/m)	$1,440	$1,440	$1,440
TECHNICAL CONSULTING (e.g., on legal or statistical issues)	$2,300	$2,300	$2,300
OTHER CONTINGENCY	$1,000	$1,000	$1,000
PRODUCTION OF FINAL REPORT	-------	-------	$2,500
TOTAL	**$49,980**	**$47,480**	**$49,980**

Note: This budget assumes that no overhead cost will be paid to UNB and that all translation work will be performed through the Government of New Brunswick as an in-kind contribution to the project. It also does not include any payment of salary or honorarium to the principal investigator who will contribute her time and expertise as an in-kind contribution to this project.

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Appendix 2

INTERIM REPORT

Submitted to the
Steering Committee for the domestic violence specialized court pilot project

From the

Muriel McQueen Ferguson Centre
for Family Violence Research

Submitted to WIB: November 3 2008
Revised March 12 2009

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Introduction

The Moncton Provincial Court-Domestic Violence pilot project is the first Domestic Violence Court in the Atlantic region. The establishment of this Court is the result of various actions taken by people in the province of New Brunswick. Historically it was in 2001, with the Minister's working group on violence against women examining New Brunswick responses to violence against women, that discussions were engaged about a better response to problems experienced by women in New Brunswick. The minister's working group developed a comprehensive strategic framework to address women's issues in New Brunswick. Recommendations from the strategic framework were presented to the provincial government and in December 2001 a three-year action plan, titled *A Better World for Women* was launched in New Brunswick. In 2005, the provincial government released a second action plan titled *A Better World for Women: Moving Forward 2005-2010*. The establishment of the Moncton Provincial Court-Domestic Violence pilot project is an outcome of the second action plan.

The foundation of the New Brunswick Court model was built through a multitude of consultations with government and non-government agencies, existing court models, best practices in research literature and expert advice. In July 2005, a provincial steering committee was established to move forth the project, and its members included senior government personnel in partnership with community agencies[58].

In January 2006 the Muriel McQueen Fergusson Centre for Family Violence Research (MMFC) joined the New Brunswick government's Steering Committee on the development of the New Brunswick Specialized Court on Domestic Violence. In May 2006 the MMFC submitted an evaluation framework (Appendix 1: Evaluation framework) to the Steering Committee that proposed to document the implementation of the Moncton Provincial Court-Domestic Violence (pilot project)[59]. The evaluation itself is a three-year project, as agreed between the principal evaluator and the Steering Committee. As explained in the evaluation framework two distinct reports are expected

[58] New Brunswick. 2008. *Provincial Court-Domestic Violence Pilot Project, Operational Procedures*. Moncton: New Brunswick, July 14, p. 4.

[59] The Moncton Provincial Court-Domestic Violence is a three year pilot project. Therefore, from time to time we refer to the term "pilot project" in the present report. It is important to remember that the Moncton Provincial Court-Domestic Violence is a pilot project and hence a work in progress at this time.

as part of the evaluation: an interim report submitted during year two to the Steering Committee regarding the implementation process, and a final report to be submitted at the end of year three explaining how the specialized court model has been implemented and how it has operated since its inception in 2007. Therefore, evaluation priorities have been structured according to a three year time frame.

Since the inception of the Moncton Provincial Court-Domestic Violence on April 12th 2007 several people have joined the working team in Moncton, other people have moved to different positions in the government and new resources have been injected into the pilot project. The pilot project is in its second year and a core team is now in place. At this time, based on the work done and the number of cases processed through the justice system, we can say that the government of New Brunswick has been able to establish a specialized response to domestic violence cases in one area: Moncton. But, has the Moncton Provincial Court-Domestic Violence been implemented as planned? To address this question, the present report is based on the first year of operation of the Moncton Provincial Court-Domestic Violence. It is an interim report reflecting people's perceptions about the implementation of the Moncton Provincial Court-Domestic Violence. The interim report is meant to provide some feedback about the process at its early stage. It is our hope that the report will be beneficial to the team and provide an opportunity for the team to make adjustments to the court model, if necessary, before the end of the three-year implementation period.

Methodology

Individual interviews were conducted with sixteen members of the Local Court Advisory Committee and ten members of the Provincial Steering Committee during the period of October 11th to December 14th, 2007 (Appendix 2: Individual interview questionnaire). The perceptions identified in this report reflect what was happening between the six and eight months period of operation of the Moncton Provincial Court-Domestic Violence. Noteworthy also is the fact that all professionals involved at the local level have joined the group at different times. For instance, some professionals have been involved before the specialized court started on April 12th, 2007, others were just joining the team when the interview process began, while some positions had not yet been filled.

People involved directly in the implementation process of the Moncton Provincial Court-Domestic Violence are key to identifying the strengths and weaknesses of the specialized court as it is unfolding. Therefore, the goal of the individual interviews with Local Court Advisory Committee members is to gain information in regards to the dynamics at play in the specialized court, especially teamwork, treatment of abusers and support to victims; the changes encountered in their work in comparison to the regular court. The following discussion reflects responses obtained from interviewees on two broad areas: the role and working relationships and; the processes and functions of the court. Additionally questions specific to the different individual's roles in the Moncton Provincial Court-Domestic Violence were also covered.

Further individual interviews with Provincial Steering Committee members provided an important view of the actual implementation of the specialized court, and the desired outcomes they envisioned. Is the conceptual model of the specialized court unfolding as members believed it would or not, and why?

Contrary to a research process that would involve individuals randomly selected, the group of informants in this evaluation process include all known individuals within the provincial government who have or are still playing a key role in the operation of the Moncton Provincial Court-Domestic Violence. Therefore special measures were taken to protect people's identity as required by the UNB Research Ethics Board. There is no reference to any informant's profession or role in the development of the Moncton Provincial Court-Domestic Violence and there are very few quotes used in this report to prevent the identification of informants. Moreover, it was extremely difficult to use people's voice to reflect how they view the implementation of the model because informants shared their perceptions in light of their own work. This report is a synthesis of what has been said repeatedly by interviewees. All interviews have been transcribed and a thematic analysis[60] has taken place. Informants have their own vocabulary to qualify their work and to talk about specialization. It is occasional that this is highlighted in the report.

[60] A thematic analysis of individual interviews is to identify common emerging themes that are reoccurring in the majority of interviews.

Informants discussed their role and involvement in the Moncton Provincial Court-Domestic Violence. They talked in great detail about changes in the dynamics among professionals and the impacts (negative or positive) of the establishment of a specialized court in regards to their workload. They also spoke from a broader perspective on the justice system's response to domestic violence cases in New Brunswick. The following report attempts, as accurately as possible, to capture this discussion.

Conceptual model of the specialized court: when theory meets practice

The implementation of the Moncton Provincial Court-Domestic Violence was challenging for many professionals involved in the process. It was challenging because it involved a shift in focus for professionals: it was the very first time that some of these professionals were working from a collaborative perspective, bringing them to question their role and professional practices in regards to a specialized response to domestic violence. During the first four months of operation of the specialized court, meetings of the local court advisory committee were occasions to raise concerns about what they perceived to be top-down imposition of the specialized court model. It is important to remember that the court design was initiated by the provincial government in Fredericton. The court design was developed prior to the site selection and therefore did not involve members of the Local Court Advisory Committee. It is important to remember that the delays occurring in selecting the site has made it difficult to engage players right from the beginning of the process development.

> You need to inform people on the ground more than two months' before implementation. You need to get them involved. They need time to absorb the new processes. They need time to amalgamate locally and take a look at what's been achieved and look at the way they function in their area and how they can come together more and work as a team. They need to also have information sessions within their community bringing everyone together. They need to have the key persons involved. (Interview 9, p.11)

A key player, the judge was approached and became involved before the Moncton Provincial Court-Domestic Violence was officially announced. Local committees (court design and service delivery) bringing together professionals implementing the domestic violence court were created in the fall of 2006. People in those committees were engaged in the court design and service delivery processes of

the domestic violence court. It was in January 2007 that the Local Court Advisory Committee began to meet in Moncton.

Despite a sense of a top-down imposition of the model, professionals involved in the Moncton Provincial Court-Domestic Violence pilot project have been very dedicated. In effect, they came together to further develop the model and make it work.

As an informant noted,

> Yes, I mean I think we just found a way to work it out. I know that the policies and procedures are important to have; we all believe that. But sometimes it's not always practical either to think that you can put everything there, and I think that you have to have some flexibility; and fortunately most of all – we've got a wonderful team- and I feel we've got really good relationships so that flexibility occurs. […] we just want to make this work and I think we've done an ok job so far. (Interview 16, p. 3)

Domestic violence cases processed through specialized court during the first year

Based on the best available information at the time, it was expected that the Moncton Court would process approximately seventy-five cases in its first year of operation. However, after a year of operation, this was a significant under estimation as the Moncton Provincial Court-Domestic Violence received 240 referrals between April 12 2007 and April 11 2008. While an examination of other specialized courts implemented around the country confirms that it is normal to have more cases, the increase of cases in the Moncton area went significantly beyond what was expected. This may be attributed in part to the number of possible charges that are considered as domestic violence. In the regular court it is difficult to trace all charges related to domestic violence because they are not flagged as such. It is clear that a specialized response is facilitating a more in-depth exploration and understanding of offences related to domestic violence among the public at large. In effect, it is broadening the understanding of the issue while demonstrating its complexity. Specialization also has an impact on the perception of domestic violence among professionals involved as they are more aware and sensitive to the diverse forms of domestic violence. The Moncton Provincial Court-Domestic Violence is victim of its own success! We will discuss the impact of increased domestic violence cases in Moncton under the section: Working in the Moncton Provincial Court-Domestic Violence.

General perceptions of the implementation of the Moncton Provincial Court-Domestic Violence

What do people think of the implementation process so far? For all members of the Local Court Advisory Committee interviewed there was a sense of accomplishment.

> I think they are doing a good job considering what they've been given, because it was a pilot project and nobody knew or figured there would be that much domestic violence I guess. And now that it started it seems like it is going up. Considering the knowledge level and the facilities, I think everyone is doing a good job. (Interview 6, p. 5).

> I just think it is a great thing [talking about specialization]. It's sad that we need this, but we're working on something, and hopefully down the line it will bring change. (Interview 7, p. 6).

The same perception was shared among members of the Provincial Steering Committee. Most of them were very satisfied with the implementation process. Steering Committee members, like the Local Court Advisory Committee members, pointed out the importance of collaboration among different departments during the implementation phase and that was fundamental in the success of an initiative like the Moncton Provincial Court-Domestic Violence.

A specialized response to domestic violence by the justice system requires a good understanding of the issue of domestic violence as well as a good comprehension of a specialized approach. Almost all professionals working in the Moncton Provincial Court-Domestic Violence that were interviewed had previously worked with people in domestic violence situations. Thus, they have an understanding of the complexity of the issue and the challenges of intervening with abusers, victims and witnesses. The level of familiarity with the issue is an important positive aspect of the way they work together. However, it is different when they express their understanding of a specialized justice response to domestic violence.

An important aspect of the work in a specialized domestic violence court is a good understanding of what constitutes a specialized court compared to a regular court. Statements from some informants from the Local Court Advisory Committee clearly show a lack of knowledge and understanding of this particular type of justice response. A specialized response to a domestic violence situation is to provide an immediate support to the victims and to hold abusers accountable for their action[61]. Therefore, the notion of victim safety is addressed in a very concrete way with provision of services and tools to assess the level of danger. Some informants wondered why under specialization, domestic violence seems to be a "more criminal" offense. They wondered if it was the same crime then before specialization?

> [...] for one reason or another they upgrade the security. And I said why are you doing that? because it's the same people. Because they are now making it the DV Court why is it that I need to have more security with the same individual that I had two years ago in provincial court? (Interview 6, p.2).

Other informants believed they were doing the exact same job they were previously doing within the regular court. Such a misconception of specialization was surprising. This may be due in part to the fact that we conducted interviews in the early stage of the implementation of the specialized court.

> Although at the very beginning I didn't know the judge was going to be doing court monitoring, which I would say has been really successful and see that it has made a huge difference for most individuals. [...] truly, the court operates like any other court, and I think a lot of people seem to think that it doesn't but. I mean we get quicker court dates in some instances, the B-safer tool is being utilized effectively, but my feeling is that the outcomes have been pretty well the same. That might be off from what other people are saying, but when I compare, well that's what I see. (Interview 16, p. 4).

For other informants the issue is taken so seriously that the pendulum is going in the opposite direction. According to these informants, domestic violence is a very serious crime that needs to be addressed with strong punishment by the justice system.

[61] New Brunswick. 2008. *Provincial Court-Domestic Violence Pilot Project, Operational Procedures*. Moncton: New Brunswick, July 14, p. 7.

Individual interviews are showing that understanding of the issue of domestic violence does not mean people fully understand what a specialized justice response to domestic violence is about. It also shows that people implementing the specialized court do not share the same vision of specialization. Some informants were clearly pointing to other professions (not talking about individuals) as requiring better education about domestic violence and specialized responses. Therefore it may be important to include an educational component for all professionals working directly in this court. This would help to produce a more coherent shared vision of the goals of this court among professionals.

When the informants were asked about the primary function of the specialized court, various responses, some apparently more informed than others, were obtained. The following statement illustrates a well-informed explanation that synthesizes the importance of offender accountability:

> I think this court is absolutely great. I feel that the victims are finally being given a voice. The offenders are being held more accountable for their actions. We're able to offer – even though the victims have been victimized for years most of them or certainly a lot of them end up going back with the offenders. At least this way through the court system we can now work not only to basically jail the offender and then he's back out on the loose but we can try to rehabilitate him though intervention programs which have never been available until we started the DV court. (Interview 10, p.7).

In contrast, the following statement illustrates the lack of understanding about the nature of specialization: "We are dealing with the same guys than before the Court was put in place. I do not see why we treat them differently now". (Interview 6, p. 3)

When asked what they thought of the early intervention process with low risk offenders it was not rare that the interviewer had to explain what it means in light of the model elaborated in the first place and the mention of the enhanced prosecution level. It is not clear whether people involved in specialization understand the importance of an immediate access to a domestic violence intervention program and risk assessments. It is fair to say that the vast majority of professionals involved in the implementation of the Court were simply unable to articulate an explanation about the court and its diverse components. From the Local Advisory Committee members, the judge and court coordinator

are the only ones aware of the distinction between an early intervention process versus an enhanced prosecution level. In fact, they appear to be the only ones thinking about how the enhanced prosecution level can be implemented in the Moncton Provincial Court-Domestic Violence.

Working in the Moncton Provincial Court-Domestic Violence

Among professionals involved in the Moncton Provincial Court-Domestic Violence there is a consensus that "[...] everyone is doing a good job", though the professionals themselves tended to be critical of their own work. In effect, they questioned whether they were making a difference, and how differently they should be doing their jobs. In fact, most informants have "[…] high hopes for success and feel a pressure to perform well". (Interview 36). At the same time, during the course of interviews, many professionals were commenting on their workload and how they felt pressured to do their best in light of the high volume of people entering the justice system. Most of them were able to detail how their workload changed in the first six months of operation of the Moncton Provincial Court-Domestic Violence. Some informants mentioned that they have a similar caseload now as they had when working in regular court: the difference for them is that there is more paperwork to fill out and more meetings to attend. It is important to note, that all professionals involved in the specialized court were in an adjustment period when the interviews were conducted and therefore it was not surprising that some seems overwhelmed by their new responsibilities. Most interestingly, two distinct messages were articulated by informants. On one hand we heard the following message: "I'm doing the job of two and a half people and I'm wondering why I can't keep up." (Interview 10, p. 4); "We need extra resources, because before DV we were stretched to the limit and now it's an additional load because of the time needed to [do our job]". (Interview 5, p. 5).

On the other hand and at the same time, we heard from informants that they have changed their way of working: "We have adapted, I guess, the way we do business in some ways." (Interview 14, p. 1) Both messages reveal how working under specialization impacts the work to be done and reflects what those implementing the Moncton Provincial Court-Domestic Violence were experiencing in the first year of operation. Professionals involved in the specialized court were surprised at the number of domestic violence cases that were entering this court. Some professionals were even "[...]

surprised at the level of violence that we deal with, I guess because before the Domestic violence court, offenders were diluted with other criminals, but now there is more concentration and it is a bit surprising." (Interview 11, p. 5) A positive outcome appears to be that specialization has raised awareness among professionals about the nature of domestic violence and the importance to intervene to both provide a safe environment to the victims and make the abusers accountable for their actions. How to best achieve these are a matter for debate.

From the beginning of the Moncton Provincial Court-Domestic Violence, professionals have been assigned to take domestic violence cases from their respective departments. In some cases it is only one individual that is assigned to the specialized court and for some individuals it is not their only responsibility. This means that some of them do have to respond to other clienteles in the course of their work. It is important to mention that all professionals assigned to the Moncton Provincial Court-Domestic Violence are coming from organizations that are dealing with different clienteles, which are not focussing only on domestic violence. As evaluator, it is very difficult for us to report on some of the professions and roles professionals are playing under specialization and how they individually talk about their involvement or how they are perceived within their organization without pointing out departments or individuals themselves. Some individuals involved in the implementation feel that they are isolated, almost working against the organizational culture and against the perceptions their colleagues have about specialization and domestic violence cases.

The success of the Moncton Provincial Court-Domestic Violence is in the hands of professionals directly doing the work. The core group of people implementing the specialized court in Moncton is definitely making efforts to make it work. However, some of those professionals are isolated from their peers or are not receiving the recognition for their work from peers or are not supported. When we rely on one committed person from a particular service, what happens when this designated person is on leave or holiday? This is a legitimate question, especially if the absence of the person impacts the operation of the Moncton Provincial Court-Domestic Violence. It is important to have a committed group of professionals that do believe in what they are doing, but it is necessary as well to promote the importance of specialized work in different departments. What incentives exist in various departments to stimulate contributions towards the work of the Moncton Provincial Court-Domestic Violence?

It is also important to note that all professionals involved in the implementation may need a safe place to vent about their work: "The people working, the frontline workers in this specialized court, it needs to be recognized that they need help. They can't do it all, all the time. So there needs to be more people; we shouldn't forget that". (Interview 7, p. 5). We should stress the fact that professionals were brought together to develop and implement the Moncton Provincial Court-Domestic Violence to take the lead on something that did not exist before in New Brunswick, that this is an evolving process for professionals involved, that the pressure to succeed is real for all of them. These are contextual elements that everyone must keep in mind when looking at the progress made in specialization.

One major negative aspect of the Moncton Provincial Court-Domestic Violence is the facility itself: "it is horrible"; "it is too small"; "it is one of the busiest site in New Brunswick". Some interviewees are raising security issues regarding the facility:

> [...] the facilities we have here; I wish they had set this in Miramichi where they have a proper courtroom and facilities to deal with it. But anyway, it is here and we have to live with it". [...] the interviewee is explaining that accused have to be walked through the public to reach the cells: It would create less problem for the courts, and the officers working for the courts. You wouldn't be on contact with the public. So, less danger for the public, less danger for the officer and less danger for anybody who works in the judiciary. (Interview 6, p. 2).

Why the specialized court is working well?

Everyone interviewed during the process agreed that there are two key players who are making the specialized court a real success: the judge and the court coordinator[62]. This has been a constant statement by professionals involved in the implementation at the local level and certainly one of the most positive aspects highlighted by participants in the implementation of the specialized court. The judge in the specialized court is seen as a pillar that leads the work. Moreover, her motivation in

[62] During the interviews conducted, no questions were asked about the professional perceptions on the judge and court coordinator. However, when explaining what works well in the Moncton Provincial Court-Domestic Violence Moncton Provincial Court-Domestic Violence a reference to the leadership taken by the judge and the dialogue engaged by the court coordinator with professionals was noticeable or perceptible in the course of interviews.

establishing an appropriate response to domestic violence cases is considered a driving force for all involved in the process. As for the court coordinator, she is perceived as the person who brings and keeps everyone together.

> You need a person like (coordinator's name) who's very capable and enthusiastic and professional at everything she does. […] you need a coordinator or person who can grab the phone and say […]. (Interview 8, p.3).

The decision made by the provincial government to have a permanent court coordinator allows for a coordinated approach among professionals delivering services within the court and sends a positive message to the local team about the government's commitment towards the Moncton Provincial Court-Domestic Violence: "[...] what's really basic is government commitment; that needs to stay". (Interview 7, p. 4).

The coordinator's role is seen as central among professionals especially when they talk about the court team meetings: the coordinator is the one insisting on bringing all key players around the table and people involved in team meetings are recognizing this benefit:

> Each case is different. Every circumstance is different. So it's good to have a chance to talk about the cases and also to talk about other stuff that goes on in the court. It's a new court, so there are a lot of minor operational things that we can talk about. And you don't have to wait till your monthly or bi-monthly meetings. (Interview 11, p. 4).

Court team meetings are also an aspect of the Moncton Provincial Court-Domestic Violence that seems to be very helpful as they bring the team together. Everyone on board is more cognizant of their role and responsibilities. Everybody is on the same page. It is also an occasion to discuss operational issues, and helps, the team to become more knowledgeable about domestic violence cases –the "exchange of information is phenomenal" (Interview 9, p. 4). Professionals are getting an understanding of everyone's role under specialization when participating in team meetings.

> I like the fact too that the core group (the committee) is involved in decision making and the whole process. So, you can bring your agency's concerns to the table and its being discussed from every angle, which I think is required, as opposed to maybe the way our justice system evolved where we are all working with our own little branches and offices but we don't necessarily sit down and discuss those issues as much as the Domestic Violence court does. So that's working good. (Interview 14, p. 3).

However, when team meetings first began, professionals did not see the necessity or even the reason for sharing: "At the beginning I was against the court team meetings but overtime you realize that those are helpful in our work, for the victims and the accused as well". (Interview 33, p. 7). Complaints about time spent in meetings when there is paperwork were also made, but criticisms were minor and all were appreciative of the importance of meetings in the course of their work.

Why the specialized court might not be working well?

Large numbers of domestic violence cases, a fast pace and rhythm for professionals working within the framework of specialization, the addition of other districts to the Moncton court, an inadequate facility, a lack of resources, and education (professional training), and issues of conflicting loyalties are among the main difficulties encountered or envisioned in the near future by informants. The number of cases processed through specialization is increasing the pace of work for professionals and the number of clients they have to deal with. It has an impact on the number of people that need to be assigned to the specialized court in order to respond adequately to clients.

> I think everything is functioning well, for the current volume. The volume will continue to increase and we're going to get into problems there because every single person needs – every single element will need more staff. One judge won't do it. One defence counsel won't do it. They're up to two crowns. That's pretty good, but still – they're probably good for a while but one probation officer won't do it. The victim services lady is overwhelmed because it's asking a lot more work on her behalf. And the facilities are horrible. There's no security. And it's not the sheriffs' fault; they're doing everything humanly possible to ensure security. It's just the way things are right now – the facilities we have. (Interview 11, p. 6).

Some informants are particularly worried about judicial perception of the Moncton Provincial Court-Domestic Violence:

> Well I think someone needs to sit down with the provincial court judges, either politicians or the chief Justice. Like [the judge] has too many things on her plate. She has to do all the DV court and do the plea court and so on, and I don't think that's right. She has too much on the plate. (Interview 6, p. 3).

> The judge has already committed herself to hold all the trials within ninety days. Unfortunately she left for a month so that caused a bit of a scheduling problem. So

> we've kind of had to rely on other judges for trials and stuff. I'm not sure where the best place would be. (Interview 10, p. 11).

As mentioned previously, some professionals involved in specialization are not clearly understanding the purpose of the Moncton Provincial Court-Domestic Violence or the treatment of domestic violence cases under specialization. A better understanding can have a positive impact on how everyone can view their role and positions in the specialized court. It is essential that professionals be knowledgeable about the work to be done under specialization.

In the long term, there might be issues of conflicting loyalties, especially for professionals who have been assigned to the Moncton Provincial Court-Domestic Violence but are still holding other responsibilities in their own department. Court team meetings are necessary for professionals to vent about domestic violence cases but also keep the team together. Unfortunately, this may not be enough over time and there might be a necessity to create incentives to be involved in a specialized court for those who may want to be involved but also for those assigning people to the specialized court.

Concerns were raised about the increase of domestic violence cases in the Moncton Provincial Court-Domestic Violence due to the closure of other courts in the Moncton region in the coming years. This was not in the original plan when the specialized court was established in Moncton. Adjustments may need to be made in terms of resources over the coming years.

Conclusion

In regards to the first year of operation of the Moncton Provincial Court-Domestic Violence we can say that the implementation of the pilot is successful:

> I just can't believe we were up and operational in such a short period of time. It's phenomenal because it's a massive project that includes so many different parties. That's amazing to me. There needs to be continued support by every department; I said that. They really need to view – whether it's the assigned CP, police, probation officer, victim services coordinator as people that are specializing in a very complex problematic social issue. (Interview 9, p. 11).

This informant is reminding us that the specialized court has been put together in a very short period of time, with people who were dedicated right from the beginning and eager to make it work.

Lessons learned for moving forward

Individual interviews conducted with those involved in the implementation of the Moncton Provincial Court-Domestic Violence are providing good insights for useful adjustments before the end of the third year of the pilot. It is understandable that issues related to the facilities may not be fixed by this time, but some attention should be devoted to resources. As evaluator we have learned that:

- There is a need to provide adequate support to professionals involved in the Moncton Provincial Court-Domestic Violence. Those individuals need to feel part of a team and be supported by their respective departments at the same time.

- There is a need to develop some education activities for professionals involved in the Moncton Provincial Court-Domestic Violence in order for them to understand better the work to be done under specialization.

- There is a need to create incentives for promoting the importance of working under specialization. Working under specialization should be seen as a promotion, a stepping stone, in someone's career not an extra burden that is added to the existing workload.

- There is a need for continued support for the initiative from the provincial government. This may require spending time with the different departments in order to promote and better explain the importance of allocating resources to the specialized court.

APPENDIX 1

NB Domestic Violence Court Pilot Project: Evaluation Framework (Phase I)

Submitted to the
Steering Committee for the domestic violence specialized court pilot project

From the

Muriel McQueen Ferguson Centre
for Family Violence Research

Submitted to WIB: May 10, 2006
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Appendix A: Timetable Evaluation Framework

Introduction

In January 2006 the Muriel McQueen Fergusson Centre for Family Violence Research joined the government Steering Committee on the development of the New Brunswick Specialized Court on Domestic Violence. The Muriel McQueen Fergusson Centre is proposing an evaluation framework design for the implementation of this pilot project.

The purpose of the evaluation will be to describe how the specialized court is implemented, to provide an understanding of strengths and weaknesses as well as intended and unintended effects of specialization, and to assess the functions and processes of the specialized court. It will also evaluate the specialized court in comparison to cases processed under a non-specialized court model. The evaluation will pay particular attention to the establishment of an integrative approach for family violence experts and professionals who work in the specialized court, and to the development of ways to support court-ordered remedies that support victims and help perpetrators to deal with their violence, as proposed in the provincial action plan to alleviate violence against women (*A Better World for Women: Moving Forward 2005-2010*). This evaluation framework will respond to the main evaluation goal suggested in the action plan 2005-2010, which is to: "assess [the] effectiveness of the specialized court model and look for opportunities to refine or strengthen the court model prior to further implementation" (p.11).

The evaluation will answer three questions about the process of the implementation, and one regarding preliminary outcomes of the Domestic Violence Court pilot project:

1) Has the Domestic Violence Court pilot project been implemented as planned?

2) Who is entering into the Domestic Violence Court system, and how are cases being processed differently under specialization?

3) How do the Domestic Violence Court functions and processes differ from non-specialized court, in terms of support to the victims, sensitivity to the unique nature of the crime, and the challenges to professionals involved in the justice system process?

4) What are the preliminary outcomes of the Domestic Violence Court?

This evaluation framework design is proposed as a three-year evaluation plan. Therefore, evaluation priorities have been structured according to a three year time frame. However, the framework is suggesting a two-phase evaluation[63] (a five to six year evaluation period in total).

It is anticipated that the final report of phase one (at the end of year three) will explain how the specialized court model has been implemented and how it has operated since its inception in 2007. This final report will be the first attempt at describing the impact of the specialized court model, as compared to the regular court. It is understood that the final report will respond to each evaluation question proposed. It is suggested that an interim report will be submitted (during year two) to the working team regarding the implementation process. Court observations and individual interviews

[63] The present evaluation framework design in this document details the first phase; however, it also briefly explains the second phase that will necessitate its own evaluation plan and supplementary funding at the end of the first phase.

with key stakeholders will be used to provide input in this regard. The interim report will provide an opportunity for the team to make adjustments to the court model if necessary before the end of the three-year period.

It is important to keep in mind that this evaluation is not intended to be a fully outcome-based evaluation, since, in order to measure the entire scope of impacts, a longer period of data collection would be required. This evaluation is an initial attempt to identify some early impacts of the newly established model. It does not entail an analysis of the cost-effectiveness of the specialized court model. This evaluation will be formative in the sense that it will highlight the strengths and weaknesses in the early operation of the Domestic Violence Court, identify potential gaps in the court model, and provide an understanding of some of the intended effects and potential unintended effects of specialization. In so doing, the proposed assessment of the specialized court implementation will identify areas that may benefit from change, and provide recommendations in this regard.

1. Domestic Violence Court Pilot Project: Background

The Domestic Violence Court pilot project is a provincial initiative involving the Departments of Justice, Public Safety, Executive Council Branch, Education, Health and Wellness, Training Employment and Development, Family and Community Services, as well as the Coalition of Transition Houses and the Muriel McQueen Fergusson Centre for Family Violence Research. The Domestic Violence Court pilot project is a recommendation that was put forward in May 2005 by the government of New Brunswick in the Action Plan 2005-2010. To date, there is no such court in the province and consequently, the model is in its developmental stage. The pilot project, to be implemented in one location[64] in New Brunswick in 2006, is pursuing a general objective in enhancing women's access to justice services (p. 10).

The logic of specialization

It is understood that an efficient response from a specialized court would take into consideration women's safety as a top priority in the justice system. As demonstrated in the literature on domestic violence[65], it is based on the logic that violence occurring in a familial setting differs in many significant ways from violent incidents where the perpetrators are strangers or extra-familial parties. As such, the task of fully prosecuting domestic violence cases and adequately ensuring the safety of victims poses unique challenges at many levels of the judicial process. The challenges are experienced by the police officers, victim services personnel, prosecutors, judges, probation officers, and treatment providers.

[64] At the time of the presentation of the evaluation framework, the location had yet to be determined by the government.

[65] See for example: Tutty, L., and Goard, C. 2002. "Woman Abuse in Canada: An Overview" in *Reclaiming Self: Issues and Resources for Women Abused by Intimate Partners*. Tutty and Goard, eds. Fernwood Publishing, Halifax & RESOLVE, Manitoba. See also: Weber, Julia. 2000. Domestic Violence Courts: Components and Considerations. *Journal of the Center for Families, Children and the Courts.* Volume 2.

Some of the challenges include:

- The need to provide increased protection *and* counselling for victims and witnesses before, during and after sentencing.
- The frequent occurrence of victim statement recants and victims declining to testify.
- The need to gather adequate information at the investigation stage in order to proceed with charges in the absence of witness testimony.
- The need to provide sentencing (and sentencing recommendations) that reflect and address the unique nature, and relationship dynamics, of domestic violence cases.

Specialized domestic violence court systems are designed to provide solutions to some of these challenges by streaming all domestic violence cases through a system where the professionals involved are trained and sensitive to domestic violence crime and its dynamics, and are working in a coordinated fashion to provide an appropriate approach to prosecution, victim accommodation, sentencing recommendation, and treatment. Some of the demonstrated benefits of this approach are highlighted below.

The demonstrated effects of specialization

Specialization is seen as a potential method for ensuring more appropriate sentencing for domestic violence crime, and has been demonstrated as effective in many cases. For example, specialization has been shown to increase court mandated specialized treatment for first time offenders, and resulted in higher incarceration rates for recurrent offenders[66]. Recidivism has also been shown to decrease under specialized court systems[67].

By providing a coordinated response and a prosecutions team that is attentive to the unique realities of the crime, some specialized court systems have in effect re-defined the measures of success in family violence justice, and been more successful that the conventional system in meeting the diverse needs of victims[68]. Specialization has also been shown to contribute to a more expedient court process in domestic violence cases in both Winnipeg and Ontario. A timely and appropriate court process is seen to increase the safety of the victim, and decrease the likelihood of victim statement recants.

[66] See: Moyer et al. 2000. "The Evaluation of the Domestic Violence Courts: Their Functioning and Effects in the First Eighteen Months of Operations, 1998 to 1999" A report to the Ministry of the Attorney General of Ontario by Moyer and Associates, Toronto.

[67] See: Hoffart, I. and Clarke, M. 2004, HomeFront Evaluation: Final Report. Written for: HomeFront Evaluation Committee. Synergy Research Group. Calgary, Alberta.

[68] Ursel, Jane. 2002 "His Sentence is My Freedom: Processing Domestic Violence Cases in the Criminal Justice Processing of Domestic Violence Cases in The Winnipeg Family Violence Court " in *Reclaiming Self: Issues and Resources for Women Abused by Intimate Partners*, Leslie Tutty and Carolyn Goard (eds). Fernwood Publishing.

2. Program Evaluation Methodology

The proposed evaluation will employ a mixed-method design using a variety of data sources and methods. It combines qualitative and quantitative methodologies and different data collection approaches. This mixed-method design will allow for the evaluation of the implementation process of the specialized court, and provide preliminary findings on domestic violence cases processed through the justice system. The following work plan outlines the major data collection methods:

d) Courtroom observation of domestic violence cases processed at the specialized court site and at a non-specialized court site;

e) Individual interviews with key informants involved in the specialized court;

f) Tracking of all domestic violence cases heard in the specialized court (Moncton), as well as domestic violence cases heard in a non-specialized provincial court (Fredericton) over a period of 18 months.

a. Courtroom Observation: specialized and non-specialized court sites

Courtroom observation of the specialized court will take place starting six months after the implementation of the model. The project coordinator will sporadically observe courtroom proceedings to understand what the parties involved are doing and how they interact in the process (including, for example: victims, abusers and witnesses). It is anticipated that, through this observation, we will have an understanding of the work accomplished in the specialized court, and an in-depth description of the dynamics in the courtroom. Using an observation grid, the project coordinator will note what is happening in the courtroom. Similar courtroom observation of domestic violence case proceedings will also take place at a non-specialized court site (Fredericton). This dual observation approach will allow the observation of differences in process, and the explanation of these differences in context. The observation will serve three purposes: a) it will help to identify gaps, strengths and weaknesses during the implementation phase of the specialized court; b) it will help to understand and highlight the differences between two different courtroom proceedings and; c) it will help to prepare for individual interviews with key informants.

b. Individual interviews

Individual interviews will be conducted with 12 to 15 individuals who are directly involved in the specialized court. For instance, individual interviews will be done with police officers, crown prosecutors, defence attorneys, judges, victim services case workers, probation officers, and any other professionals who play a role in the specialized court. All professionals involved in the specialized court will gain knowledge about the work accomplished in a specialized court, about the difficulties, and positive aspects of teamwork; these professionals will also have an understanding of the specialized court from the inside and the process from a day-to-day perspective. Therefore, the information derived from their perceptions on the specialized court during the course of its

implementation will contribute to the process evaluation. The goal of the individual interview component of the evaluation is to gather information that will help in:

- understanding the dynamics at play in the specialized court (teamwork, courtroom dynamics, support to victims and witnesses, treatment of abusers);
- identifying changes in comparison with their work in the regular court;
- identifying the strengths and weaknesses of the specialized court.

Open-ended semi-structured questions will be used to conduct the interviews, allowing the interviewer to gain in-depth information from these stakeholders.

A list of all individuals involved in the specialized court will be provided to the project coordinator by the Steering Committee. The procedure will then address a personalized letter to inform them about the evaluation process and the purpose for individual interviews. After this first contact, the project coordinator will contact each of them by telephone to schedule individual interviews. When the potential interviewees are contacted they will be given a summary of the evaluation process and their expected involvement. They will then be asked to confirm their interest. The project coordinator will schedule interviews during the last quarter of year one and first quarter of year two.

Finally, an additional set of individual interviews (8-10) will be set-up with the Specialized Court Steering Committee members to gather their perceptions in regards to the actual implementation of the Specialized Court, and the desired outcomes they are envisioning. These individual interviews will help point out the perceptions of those involved at the conceptual level of the Specialized Court. It is important to seek their input in order to determine whether these key stakeholders see the process unfolding as they believe it should, and if not, why.

c. Court tracking: specialized and non-specialized court sites

Court tracking will allow us to quantitatively follow all domestic violence cases through the specialized court (Moncton) over a period of eighteen (18) months. Court tracking of domestic violence cases through the regular (non-specialized) court (Fredericton) will also be performed over a period of eighteen (18) months. One important purpose of tracking domestic violence cases through both specialized and non-specialized courts is to understand case processes in regards to timeliness of court proceedings. Because we are talking about women's safety and adequate intervention with abusers, it is important to have a sense of court processes and outcomes (including pleas, sentencing patterns, as well as treatment impositions and breaches) [69]. With data from both courts, it will be possible to assess what influence specialization has on the processing of domestic violence cases, and to document the changes that occur as a result of specialization, and make comparisons to the regular court process.

[69] Given the time required for cases to move through the justice system, an evaluation of recidivism requires a minimum 4 years of evaluation data gathering. If the evaluation of the New Brunswick specialized court proceeds into phase two, recidivism rates will become a key evaluation component, providing a more long term measure of court success.

3. Data collection from existing data sources

Existing data sources

The evaluation database (data management system) will be created by drawing on existing data sources within the New Brunswick justice system. Access to the existing databases and hard copy files in the justice system (both Public Prosecution files and Court files) will be required, and these will be drawn from for evaluation purposes. For the most efficient data gathering process, a central access point for all data will be required to be accessible by evaluators in Fredericton and at the pilot site (Moncton). In addition to the hard copy file, data verification may be required for some cases, which will be accessed through a designated contact within the Department of Justice. Possible databases for data verification include:

1. New Brunswick Department of Justice Information System (JISNB)
2. Public Prosecutions File Management System
3. Prosecution files (hard copy files)
4. NB Public Safety Information System (Victim Services, Probation, Corrections)

Data flow (tentative and contingent on data access)

An evaluation data management system will be created by the evaluators for the purposes of the specialized court evaluation. This data management system will become the data entry point for all quantitative case information being monitored, and it will become the source for final data analysis. As mentioned above, information for this database will be drawn primarily from Court and Crown Prosecutor files (hard copy).

Court Files: The court docket information posted daily will provide evaluators with the information on who is appearing in the specialized court that day, and on what charges (including both new charges and breaches)[70]. At this point the accused will be assigned a record in the evaluation data management system. After the first appearance, subsequent case information for the accused will be pulled from the court file (including: pleas, court orders, and sentencing information) and incorporated into the evaluation data management system.

Public Prosecution Files: Public prosecution files will be accessed will be reviewed at the end of the case. This file will become the primary data source for case characteristic information, and any police-generated case information, as well as for examining pre-sentence reports, and victim impact statements. The hard copy prosecution files will also be required for gathering data at the non-specialized court site (Fredericton).

Public Safety Information System: Depending upon whether the court model incorporates court review into its design, the department of Public Safety Database may also need to be accessed in this first phase of the research. This Public Safety database will also provide the information required for subsequent phases of the evaluation, which will incorporate victim perspectives and treatment completion.

[70] Once the pilot project is underway, court dockets will need to, in some way, identify which cases are being heard under the specialized system; and it will be imperative that the evaluation researchers have access to this information early in the process.

4. Analysis

The analysis of the information collected by the courtroom observation, individual interviews and court tracking will be of a qualitative and quantitative nature. A qualitative analysis of the courtroom observation and the individual interviews will be performed using content analysis, in which specific themes that are emerging from interviews are examined. This qualitative component of the evaluation will focus on some key indicators such as the availability and usefulness of existing services, the knowledge of services/resources, and the level of comfort with the required team work.

The quantitative analysis will be performed with a database developed in Microsoft Access, and analysed using SPSS (a statistical analysis program). This data analysis will allow a description of processes and case outcomes in the specialized court, an understanding of who is entering in the system (case demographics), and a comparison with pre-specialization.

Suggested key indicator areas to be tracked are: prosecution, sentencing, court processes, case characteristics, victim support and cooperation. Research has indicated that the very fact that a specialized court is being implemented has an impact in the public and can lead to a sudden but short-lived peak of interest (a passing fancy) for the administration of justice in cases of domestic violence. This peak can have misleading consequences on the research design as more people may report abuse or access the system. Therefore, measures of success for a specialized court must be multidimensional in order to capture the entire process[71]. In this evaluation framework we will keep in mind that success can be defined in different ways, understanding that key indicators are to be looked at in a broader perspective.

5. Ethical Considerations, Confidentiality, and Data Sharing

It is understood that the evaluation plan will be implemented only after approval has been received from the Research Ethics Board (REB) at the University of New Brunswick. All research projects taking place through, or affiliated with, UNB are required to submit applications to the REB to ensure that research components are in compliance with university research conduct policy and with Canada's Tri-Council policy on Ethical Conduct for Research Involving Humans. Therefore, all research activities proposed herein will require that our written application be approved by UNB.

Because of the confidential and sensitive nature of the data and files in this evaluation, evaluators will be required to exercise extreme care in protecting data; and of course, information access will be subject to Canada's two federal privacy laws. It should also be noted that, in order to fully evaluate the pilot project and analyse the data discussed above, evaluators will require unobstructed access to justice system and public safety records and information, and that none of the evaluation research proposed herein will be possible unless this is granted. Though more than one electronic records system may need to be used, ideally, this information should be gathered from two central access points (one in Fredericton and one in Moncton).

[71] Ursel has shown that "Historically, measures of success within the CJS (Criminal Justice System) have been one-dimensional, focusing on outcome rather than process […]". Ursel, Jane. 2002 "His Sentence is My Freedom: Processing Domestic Violence Cases in the Criminal Justice Processing of Domestic Violence Cases in The Winnipeg Family Violence Court " in *Reclaiming Self: Issues and Resources for Women Abused by Intimate Partners*, Leslie Tutty and Carolyn Goard (eds). Fernwood Publishing, p. 46.

6. Schedule and Staff

Timetable

A three year timetable is provided in Appendix A. All major tasks are enumerated and compiled quarterly and yearly. The timetable aids in the visualisation of the tasks to be performed during the three year period. Note that the ethics application will be prepared before the beginning of the first year and that it is also expected that an agreement regarding access to existing data sources from provincial departments will be obtained before the project starts. Hence, these tasks are not included in our timetable.

Members of the Steering Committee and stakeholders from the provincial consultation held in March 2006 were concerned about taking into account victims' and abusers' perceptions of their experience within the specialized court. As it is difficult to gather information on people's experiences when they are still in the middle of the process and/or just walking out of a process, it is understood that this should be looked at in a second evaluation phase. It is important to mention that time will be allocated during the third year of the evaluation process to work on new funding applications for phase II in order to gather information directly from victims and abusers.

Designated Responsibilities

The grid below outlines the roles of each group and individual involved in the evaluation research.

Activity	**Principal Investigator**	**Consultants & Advisory Committee**	**Project Coordinator**	**Research Assistant**
Designing observation grid	X	X	X	
Observation in Court			X	
Designing individual interview questionnaire	X	X	X	
Designing, formatting data base, case tracking	X	X	X	
Data entry and cleaning			X	X
Interviews transcription				X
Analysis of observations and interviews	X	X	X	
Interim Report	X		X	
Data analysis	X	X	X	
Final Report	X		X	
Presentations of Report	X		X	
Preparing new funding application for phase II	X	X		

7. Demonstrated Capacity to Complete the Project

Carmen Gill, Ph.D., will be the Principal Investigator responsible for overseeing the evaluation project. Dr. Carmen Gill is Assistant Professor in the Department of Sociology and Director of the Muriel McQueen Fergusson Centre for Family Violence Research. She has expertise in family violence research. She is familiar with researching the justice system response to intimate partner violence and has been involved in evaluation research.

Heather McTiernan will be the project coordinator. Ms. McTiernan has a master's degree in policy studies from UNB. Prior to joining MMFC, she conducted program evaluations for the non-profit sector (environmental organizations) as a consultant, and has research experience in both qualitative and quantitative methods. Dr. Gill and Ms. McTiernan will conduct the three-year evaluation project.

A graduate student with background experience in data entry will be hired as a research assistant to complete the evaluation team. Dr. Jane Ursel will be asked to provide input as a consultant at two points in time during the evaluation process: first in regards to the design of instruments and, second, in the course of the analysis of court tracking. Dr. Jane Ursel is the director of RESOLVE (Research and education for solutions to violence and abuse) at the University of Manitoba. She is the foremost expert in Canada on the evaluation of specialized court processes. She is the director of a longitudinal study of the Winnipeg Family Violence Court, having collected sixteen years of data from that Court. She is also involved in social policy analysis and development.

The principal investigator will sporadically seek informal advice from other colleagues at the Centre and at UNB, such as Dr. Linda Neilson and Dr. Luc Thériault, both from the Department of Sociology.

8. Strategy for the Dissemination of Results

There are two different points for disseminating results from this evaluation. First, an interim report will be submitted to the steering committee. The interim report will be presented and discussed at the steering committee at the end of the second year of the evaluation. This report will provide the committee with a qualitative evaluation of the implementation process of the specialized court. Second, the final report will be presented and discussed at the steering committee at the end of year three. A summary of the report will also be available upon request to other individuals involved in this evaluation. Once the evaluation team receives approval to publicly release the report, it will be posted on the Muriel McQueen Fergusson Centre webpage and Dr. Gill will be at liberty to make academic presentations about the research. We would expect to make the report electronically available about 6 to 8 months after the evaluation findings are presented to the steering committee.

BUDGET ($147,440 over 3 years)

	Year 1	Year 2	Year 3
EQUIPMENT			
Laptop Computer & Printer for Project	$2,500	--------	--------
SALARY (including benefits)			
• Research Coordinator ($25/h x 20h/w x 52 weeks)	$26,000	$26,000	$26,000
• Summer Research Assistant ($17/h x 40h/w x 18 weeks)	$12,240	$12,240	$12,240
TRAVEL & ACCOMODATION	$4,500	$4,500	$4,500
OFFICE SUPPLY & COMMUNICATION (Paper, photocopy, ink & phone at $120/m)	$1,440	$1,440	$1,440
TECHNICAL CONSULTING (e.g., on legal or statistical issues)	$2,300	$2,300	$2,300
OTHER CONTINGENCY	$1,000	$1,000	$1,000
PRODUCTION OF FINAL REPORT	-------	-------	$2,500
TOTAL	**$49,980**	**$47,480**	**$49,980**

Note: This budget assumes that no overhead cost will be paid to UNB and that all translation work will be performed through the Government of New Brunswick as an in-kind contribution to the project. It also does not include any payment of salary or honorarium to the principal investigator who will contribute her time and expertise as an in-kind contribution to this project.

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APPENDIX 2: INTERVIEW QUESTIONNAIRE

A) COURT INVOLEMENT FACTSHEET

1. Demographics

Department / workplace:_____

Position:_____

Role(s) with the *Provincial Court – Domestic Violence*:
_____
_____
_____

Date (month & year) you became involved with the *Provincial Court – Domestic Violence*:_____

A) GENERAL INTERVIEW QUESTIONS[72]:

Roles and working relationships:

1) Briefly describe your role(s) and involvement with this Court.

2) Briefly explain how and why you came to be involved.

3) Prior to the development of this court, to what extent did your work involve dealing with domestic violence?

4) Who do you interact with regularly in your work in the *Moncton provincial court for domestic violence cases*. [groups, organizations, and individuals by role, not name]

5) For each of the groups and individuals you listed above, explain the nature of your working relationships.

6) Has the nature of these working relationships / collaborations changed since the development of this specialized approach? How? [prompts: court team meeting interactions?...]

7) Have any differences in *your work* (activities / approach etc) arisen since the development of the court? If so, explain these (whether positive or negative)?

8) More generally, in what ways, if at all, has the work in *your organization or department* changed?

9) Do you think any of the other groups or organizations involved with the court should be doing something differently then they are currently in order to make the collaboration more effective? If so, then what would that be?

Processes and functions of the court:

10) For participants in *court team meetings*: [Crown Prosecutors; Police; Probation; Victim Services (NB); Legal Aid]

What is you impression of the court team function and meetings?

a) Do you think that the meetings are effective? What do they contribute? [prompts: early/effective resolution, information sharing]
b) Is the level of collaboration and information-sharing is effective?
c) Are these meetings serving their intended purpose?
d) Do you feel that there is active and adequate participation from all relevant parties at these meetings?
e) Recommendations? [prompts: length, structure, representation etc]

[72]Questions in bold have been adapted from: Hoffart and Clarke. 2004. *HomeFront Evaluation: Companion Document to the Final Report.* Calgary, AB.*)*

11) What, in your view, are the most important *functions of this court*? Do you feel these are being met? Why? Why not? [prompt on those not raised]

12) In general what are *your expectations* of the *Provincial Court – Domestic Violence (Moncton)*?

13) In your view, what have been some of the anticipated results of specialization (both positive and negative)? Unanticipated results?
[prompts: coordination? victim safety?]

14) In your view, has the *early intervention process* been effective for dealing with low risk offenders (why / why not?).

15) In your opinion, is specialization making a difference in the way domestic violence crime is dealt with? How? [prompts: for the court process? for victims? for offenders? public perception?...]

16) In your opinion, what elements need to stay the same to ensure that the *Provincial Court – Domestic Violence* reaches its goals (ie: what aspects of it are currently functioning well)?

17) In your opinion, what needs to change or be removed in order for it to function well?

18) If more resources were available, where do you think they should be allocated to, in order to:
   a) facilitate your work?
   b) have the greatest impact in meeting the goals of the court?

19) Do you have any comments regarding the overall process and direction of the court?

20) What recommendations would you make for the evolution of the court as it moves forward? (…ie: what elements should be added and or removed in order to improve it?)

21) What do you think is the most important aspect to be taken into account in an interim report?

B) ADDITIONAL QUESTIONS FOR COURT PROFESSIONALS

(Judge, Prosecutor, Defence Bar, Legal Aid, Court Service Workers, QB Personnel, Family Court Personnel)

1. In your experience with cases in the *Provincial Court – Domestic Violence*, to what extent has the coordination of crossover between the three courts (Queens Bench court, Family court, and the *Provincial Court – Domestic Violence*) been a challenge? (ie: conflicting court orders etc).
    - In what way has this affected cases [prompt examples]
    - In your experience, how well have the challenges been dealt with?
    - Do you have recommendations for dealing with these challenges / improving coordination between the courts?

C) ADDITIONAL QUESTIONS FOR FRONTLINE & SERVICE PERSONEL

(Police, Probation, Victim Services, Service Providers [offender treatment, shelter workers, etc])

1. Based on your interactions with [victims/perpetrators/family members] *since the implementation of the Provincial Court – Domestic Violence*, what has changed in terms of how [victims/perpetrators/family members] in domestic cases experience the criminal justice process?
    - In what ways has it improved/benefited them?
    - In what ways has it failed to improve / benefit them?

D) ADDITIONAL QUESTIONS FOR MEMBERS OF COURT DESIGN COMMITTEE AND PROVINCIAL STEERING COMMITEE
[participant provided a copy of court goals for review before answering]

1. *Based on your experience with the planning process*, to what extent has the court's implementation and initial operation matched its expectations and intentions?
    - In what ways, if any, has it varied from the planned model?
    - Why do you think these variations came about?
    - Are there positive or negative consequences to them?

2. What *unexpected challenges*, if any, have arisen since the court has begun operation? Do you think they have been adequately addressed to date? If not, do you have recommendations for addressing these challenges?

E) ALL INTERVIEWEES:

Is there anything you would like to add?